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MONTANA LEGISLATIVE HISTORY

Chapter 530 1995

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H. Committee on Business & Labor			S. Committee on Business & Industry		
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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

COURTESY OF THE STATE LAW LIBRARY OF MONTANA

House BILL NO. 574

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LIQUOR LAWS; PROVIDING FOR THE CONVERSION OF EMPLOYEE-OPERATED STATE LIQUOR STORES TO AGENCY LIQUOR STORES; PROVIDING THAT ELIGIBLE STATE LIQUOR STORE EMPLOYEES HAVE A RIGHT OF FIRST REFUSAL IN BECOMING AGENTS FOR THE CONVERTED STORES; PROVIDING FOR THE PURCHASE OF LIQUOR ASSETS IN STORES BY THE AGENTS OPERATING THE STORES OVER AN 18-MONTH PERIOD; PROHIBITING NEW AGENCY LIQUOR STORES FOR 4 YEARS IN CITIES OR TOWNS THAT HAD AN AGENCY LIQUOR STORE IN 1994; PROVIDING FOR A STATE LIEN ON LIQUOR IN AGENCY LIQUOR STORES; PROHIBITING A PERSON FROM HAVING AN OWNERSHIP INTEREST IN MORE THAN ONE AGENCY LIQUOR STORE; PROHIBITING AN OWNERSHIP INTEREST IN AN AGENCY LIQUOR STORE BY A PERSON HAVING ANOTHER TYPE OF LIQUOR LICENSE; PROVIDING FOR A BONUS PAYMENT FOR CERTAIN STATE LIQUOR DIVISION EMPLOYEES WHO REMAIN IN EMPLOYMENT DURING THE CONVERSION PROCESS; AMENDING LAWS RELATING TO TABLE WINE TO CLARIFY THE DISTRIBUTION AND SALE OF TABLE WINE IN RELATION TO AGENCY LIQUOR STORES; PROVIDING FOR THE CONTRACTUAL AND OTHER ADMINISTRATION OF AGENCY LIQUOR STORES; INCREASING THE CASE DISCOUNT ON THE SALE OF LIQUOR TO 8 PERCENT AND LIMITING THE DISCOUNT TO ALCOHOLIC BEVERAGE LICENSEES; PROVIDING THAT AGENCY STORES MAY BE OPEN ON MONDAYS IF A MAJORITY OF THE ALL-BEVERAGES LICENSEES IN THE AGENCY'S MARKET AREA AGREE; AMENDING SECTIONS 2-17-101, 16-1-103, 16-1-105, 16-1-106, 16-1-301, 16-1-302, 16-1-303, 16-1-304, 16-1-402, 16-2-101, 16-2-104, 16-2-105, 16-2-106, 16-2-107, 16-2-108, 16-2-201, 16-2-301, 16-3-103, 16-3-106, 16-3-307, 16-3-401, 16-3-402, 16-3-403, 16-3-411, 16-4-105, 16-4-401, 16-6-107, 16-6-303, 17-8-244, AND 30-9-104, MCA; REPEALING SECTIONS 16-2-302 AND 16-2-303, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Eligible state employee.** As used in [sections 1 through 8], "eligible state employee" means a state employee who worked 544 hours either in an employee-operated state

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liquor store as a liquor store manager, assistant manager, or clerk or in the central office of the liquor division between July 1, 1994, and January 6, 1995, who is in a position subject to termination by [sections 1 through 8]. For purposes of this section, the term "worked" includes all hours reported to the central payroll system, such as but not limited to hours worked, sick leave, annual leave, and leave without pay.

NEW SECTION. **Section 2. Purchase of initial inventory by existing state agent.** (1) As of June 30, 1995, the department of revenue shall calculate a closing statement showing the dollar amount of inventory on hand for each agency liquor store in operation on that date. As soon as practical thereafter, the department shall send to each agency liquor store a statement for the total price of the inventory, payable in 16 even monthly payments. The price must be calculated in the same manner as the price for liquor purchased by an agency liquor store under the provisions of 16-2-101. The first payment is due 60 days from the date on which the department mails the statement, and each subsequent payment is due on the last day of the month for each month thereafter. At any time after payment of the first payment, an agent who is purchasing the initial inventory may pay in full the amount due or may increase the amount of each monthly payment. The payment of increased payments does not waive the making of a monthly payment until the initial purchase price is fully paid.

(2) Any shortages due the state as of June 30, 1995, must be offset from the final commission payment. If the shortage exceeds the calculated commission payment, the agent shall make payment within 30 days of notice of the amount due.

NEW SECTION. **Section 3. Purchase of initial inventory and trade fixtures from former state liquor store.** (1) After the selection of an agent pursuant to [section 6] who was an eligible state employee or a business entity consisting of eligible state employees to operate an agency liquor store that is operating as a state liquor store, the person or entity selected as agent and the department of revenue shall agree upon a date of conversion from a state liquor store to an agency liquor store. The date must be between July 1, 1995, and December 1, 1995. As of the day before the conversion date, the department shall calculate a closing statement showing the dollar amount of inventory on hand and the dollar amount of any trade fixtures that the agent chooses to purchase. As soon as practical thereafter, the department shall send to the agency liquor store a statement for the total price of the inventory and trade fixtures, payable

in 16 even monthly payments. The price of liquor must be calculated in the same manner as the price for liquor purchased by an agency liquor store under the provisions of 16-2-101. Trade fixtures must be valued by the department as the amount, if any, in excess of the fixtures' depreciated value. The first payment is due 60 days from the date on which the department mails the statement, and each subsequent payment is due on the last day of the month for each month thereafter. At any time after payment of the first payment, an agent may pay in full the amount due or may increase the amount of each monthly payment. The payment of increased payments does not waive the making of a monthly payment until the initial purchase price is fully paid.

(2) Any shortages due the state as of the date of conversion must be paid by the store manager if the store manager becomes the liquor store agent or is a partner or shareholder in a business selected as the liquor store agent. The manager shall make payment within 30 days of notice of the amount due.

NEW SECTION. **Section 4. Sales of returned liquor.** Any inventory owned by the state that is located in either an agency liquor store or an employee-operated state liquor store prior to the operation of either [section 2] or [section 3], which in the opinion of the department of revenue is not economically feasible to be sold in agency liquor stores, may be returned to the state liquor warehouse. The department may, between July 1, 1995, and June 30, 1996, dispose of this inventory in any commercially reasonable manner, including but not limited to retail sales from the state liquor warehouse to retail licensees. After the department has exhausted all attempts to commercially dispose of the inventory, the department may dispose of it in any manner meeting its sound discretion.

NEW SECTION. **Section 5. Liquor store employees preference rights and bonus payment.** (1) Any liquor store employee or liquor division central office employee who meets the requirements of an eligible state employee who is terminated as a result of the operation of [sections 1 through 8] is eligible for a work incentive bonus if the employee continues in employment through December 31, 1995. This bonus is in addition to any reduction in force benefits or other benefits that the employee may be entitled to as a result of termination under the provisions of [sections 1 through 8].

(a) The amount of the bonus must be computed by multiplying the eligible state employee's hourly wage by 26.8%. The resulting product must be multiplied by 2,080 and that resulting product must be multiplied by the quotient of the number of hours worked, not to exceed 1,088 hours, as an eligible state

employee between July 1, 1994, and January 6, 1995, divided by 1,088, which result is equal to the employee's bonus.

(b) An employee is entitled to the full amount of the bonus if the employee's employment is terminated by the department of revenue before December 31, 1995, because of the operation of [sections 1 through 8].

(2)(a) Notwithstanding any other provision of law, an employee of a state liquor store who meets the requirements of an eligible state employee must be given the first right of refusal for selection of the agent chosen to operate an agency liquor store.

(b) The department's selection criteria in order of priority for selecting an agent for employee-operated state liquor stores to be converted to agency liquor stores are as follows:

(i) The applicant must be either an eligible state employee who is an employee of the store, a partnership with a majority of the partners qualifying as eligible state employees and a majority of the partners working as employees of the state liquor store, or a corporation with at least one shareholder who is an eligible state employee and is an employee of the store.

(ii) If no applicant meets the requirements of subsection (2)(b)(i), the applicant must be either an eligible state employee and an employee of another state liquor store in the same city or town, a partnership with a majority of the partners qualifying as eligible state employees and employees of another state liquor store in the same city or town, or a corporation with at least one shareholder who is an eligible state employee and is an employee of another state liquor store in the same city or town.

(iii) If no applicant meets the requirements of subsection (2)(b)(i) or (2)(b)(ii), the state agent must be selected by the methods required by the department of administration.

(3) All state liquor store employees and liquor division central office employees whose positions are eliminated as a result of [sections 1 through 8] are entitled to all the benefits accorded by the State Employee Protection Act in Title 2, chapter 18, part 12, as that part reads on the date on which the employee leaves state employment.

NEW SECTION. **Section 6. Conversion of existing state-operated liquor stores.** (1)(a) Within 45 days of [the effective date of this section], an eligible state employee or a business entity consisting of eligible state employees, as referred to in [section 5(2)(b)(i)], may file an application or applications to operate as an agency liquor store the liquor store in which the employee or entity is employed or to operate

as an agency liquor store another liquor store in the same community in which the employee or entity is employed.

(b) The application must set forth the nature of the entity applying for the agency franchise agreement and the employee's or employees' preference rights, along with any other information that the department of revenue requires.

(2)(a) If the employee or a business entity consisting of eligible state employees is the sole applicant, the department shall enter into an agency franchise agreement with either the employee or the business entity to operate the agency liquor store.

(b) If more than one eligible state employee or business entity consisting of eligible state employees applies to be the agent for the liquor store in which the employee or entity works, the department shall use the appropriate competitive bidding procedures to select the agent. However, no other person may be allowed to apply.

(3) The initial commission rate for agency liquor stores to be operated by employees is the direct operating expenses for a liquor store during fiscal year 1994 divided by the gross sales for fiscal year 1994, not to exceed 10%. The initial commission rate may not be less than 10% for stores in communities with less than 3,000 population. Any direct expense excluded by the 10% maximum rate must be proportionally distributed among the remaining agency liquor stores.

(4) If after 45 days after [the effective date of this section] an eligible state employee or business entity consisting of eligible state employees does not apply to operate the former state liquor store as an agency liquor store, the department shall use the appropriate competitive bidding procedures to select the agent.

(5) For purposes of this section, an eligible state employee is considered to be an employee of the state liquor store in which the eligible employee worked a majority of the hours between July 1, 1994, and January 6, 1995.

(6) Until converted to an agency liquor store, a state liquor store shall operate under the laws governing the operation of state liquor stores as those laws read on January 1, 1995.

NEW SECTION. **Section 7. No new agency franchises for four years.** Notwithstanding the provisions of [section 9], the department of revenue may not establish any new agency liquor stores until after July 1, 1999, in any community that had at least one agency liquor store on July 1, 1994.

NEW SECTION. **Section 8. Exemption from privatization plan requirements.** [Sections 1 through 8] do not constitute privatization by an agency as that term is used in Title 2, chapter 8, part 3, and the administration of [sections 1 through 8] by the department of revenue is not subject to the provisions of Title 2, chapter 8, part 3.

NEW SECTION. **Section 9. Number and location of agency liquor stores.** (1)(a) In a community with a population of 12,000 or less, there may be one agency liquor store. In communities with populations greater than 12,000, there may be one agency liquor store for the first 12,000 inhabitants and one additional agency liquor store within increments of population of 40,000 inhabitants above 12,000 inhabitants. In determining population, the department shall use the same methods used for determining increases in the retail license quota system as provided in 16-4-501.

(b) In communities that are eligible for more than one agency liquor store, an agency liquor store may not be located within a 1-mile radius of any other agency liquor store in the community.

(2) An agency liquor store may not be located in a community that is closer than 35 miles to another community in which an agency liquor store is presently located, except in the circumstance when the most recent population estimates show a 25% growth in population or a growth of 1,000 inhabitants within a 2-year period, whichever is greater, and when this population increase is reasonably expected to continue for at least 5 years.

NEW SECTION. **Section 10. State lien on liquor in agency liquor stores.** The state has a first lien with an absolute first priority to secure any outstanding amounts due the state for liquor purchased on any inventory, including any after-acquired inventory in the possession of an agent or on the premises of an agency liquor store, to secure payment for the existing inventory. The state has the right to physically recover any inventory from an agency liquor store for any failure to timely make payments.

Section 11. Section 2-17-101, MCA, is amended to read:

"**2-17-101. Allocation of space.** (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate space, the department periodically shall identify the amount, location, and nature of space used by each agency.

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state to meet the agency's requirements. If ~~no~~ space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate building or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase property for quarters without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers of the senate must be determined in the sole discretion of the senate.

(b) The department of administration, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) For state agencies located in a city other than Helena, the department of administration shall consolidate the offices of these agencies in a single, central location within the city whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in the city to achieve consolidation. ~~State retail liquor stores, liquor retail agencies, and offices~~ Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation."

Section 12. Section 16-1-103, MCA, is amended to read:

"16-1-103. Policy as to retail sale of liquor. It is the policy of the state that it is necessary to further regulate and control the sale and distribution of alcoholic beverages within the state and to ensure that the department has ~~the entire~~ complete regulatory control of the sale of liquor in ~~the department of revenue~~ this state. It is advisable and necessary, in addition to the operation of the ~~state~~ agency liquor stores now provided by law, that the department be empowered and authorized to grant licenses to persons qualified under this code to sell liquor purchased by them at ~~state~~ agency liquor stores at retail posted price in accordance with this code and under rules promulgated by the department and under its strict supervision and control and to provide severe penalty for the sale of liquor except by and in ~~state~~ agency

liquor stores and by persons licensed under this code. The restrictions, regulations, and provisions contained in this code are enacted by the legislature for the protection, health, welfare, and safety of the people of the state."

Section 13. Section 16-1-105, MCA, is amended to read:

"**16-1-105. Divisions of code.** This code is divided into six chapters. Chapter 1 relates to the authority of the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to the establishment of ~~state~~ agency liquor stores and the keeping and selling of liquors. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5, now repealed, related to identification cards. Chapter 6 relates to enforcement."

Section 14. Section 16-1-106, MCA, is amended to read:

"**16-1-106. Definitions.** As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a retail store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at retail for off-premises consumption.

~~(2)~~(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

~~(3)~~(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

~~(4)~~(5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

~~(5)~~(6) "Beer importer" means a person other than a brewer who imports malt beverages.

~~(6)~~(7) "Brewer" means a person who produces malt beverages.

(8) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

~~(7)~~(9) "Department" means the department of revenue, unless otherwise specified.

~~(8)~~(10) "Immediate family" means a spouse, dependent children, or dependent parents.

~~(9)~~(11) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

~~(10)~~(12) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR.

~~(11)~~(13) "Liquor" means an alcoholic beverage except beer and table wine.

~~(12)~~(14) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

~~(13)~~(15) "Package" means a container or receptacle used for holding an alcoholic beverage.

~~(14)~~(16) "Posted price" means the retail price of liquor and table wine as fixed and determined by the department and in addition an excise and license tax as provided in this code.

~~(15)~~(17) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

~~(16)~~(18) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

~~(17)~~(19) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

~~(18)~~(20) "State liquor ~~facility~~ warehouse" means a ~~facility~~ building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

~~(19) "State liquor store" means a retail store operated by the department in accordance with this code for the purpose of selling liquor and table wine.~~

~~(20)~~(21) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

~~(21)~~(22) "Subwarehouse" means a building or structure owned or operated by a licensed beer

wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

~~(22)~~(23) "Table wine" means wine that contains not more than 16% alcohol by volume.

~~(23)~~(24) "Table wine distributor" means a person importing into or purchasing in Montana table wine for sale or resale to retailers licensed in Montana.

~~(24)~~(25) "Warehouse" means a building or structure located in Montana owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

~~(25)~~(26) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

Section 15. Section 16-1-301, MCA, is amended to read:

"**16-1-301. Administration of code.** The department shall have the powers and duties to administer the Montana Alcoholic Beverage Code, including the general control, management, and supervision of all ~~state~~ agency liquor stores."

Section 16. Section 16-1-302, MCA, is amended to read:

"**16-1-302. Functions, powers, and duties of department.** The department has the following functions, duties, and powers:

(1) to buy, import, have in its possession for sale, and sell liquors ~~and table wine~~;

(2) to control the possession, sale, and delivery of liquors in accordance with the provisions of this code;

(3) to determine the municipalities where ~~state~~ agency liquor stores are to be established throughout the state and the situation of the stores within these municipalities;

(4) to lease, furnish, and equip any building or land required to administer its duties under this code;

(5) to buy or lease plants and equipment necessary to administer its duties under this code;

(6) to employ ~~store managers and other~~ the necessary employees required to administer this code and to dismiss them, assign them their title, and define their respective duties and powers and to contract with the department of justice for investigative services or to contract for the services of experts and persons engaged in the practice of a profession, if appropriate;

(7) to determine the nature, form, and capacity of all packages to be used for containing liquor kept or sold under this code;

(8) to grant and issue licenses under this code;

(9) to place special restrictions on the use of a particular license, which must be endorsed upon the face of the license, if the special restrictions are made pursuant to a hearing held in connection with the issuance of the license or if the special restrictions are agreed to by the licensee;

(10) without limiting or being limited by the foregoing, to do all things necessary to administer this code or rules."

Section 17. Section 16-1-303, MCA, is amended to read:

"**16-1-303. Department rules.** (1) The department and the department of justice may make rules not inconsistent with this code necessary to efficiently administer this code.

(2) Rules made by the department may include but are not limited to the following:

(a) regulating the ~~equipment and management~~ contractual operation of ~~state~~ agency liquor stores and warehouses in which liquor ~~or table wine~~ is kept or sold and prescribing the books and records to be kept;

(b) prescribing the duties of department employees and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor ~~and table wine~~ and the furnishing of liquor ~~and table wine~~ to ~~state~~ agency liquor stores;

(d) determining the classes, varieties, and brands of liquor ~~and table wine~~ to be ~~kept~~ available for distribution from the state liquor warehouse ~~sale at any state store~~;

(e) prescribing the minimum hours during which ~~state~~ agency liquor stores must be open for the

sale of alcoholic beverages;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor ~~and table wine~~ kept for sale;

(g) prescribing forms to be used for the purpose of this code or the rules and the terms and conditions for permits and licenses issued and granted under this code;

(h) prescribing the form of records of purchase of liquor ~~and table wine~~ and the reports to be made to the department and providing for inspection of the records;

(i) prescribing the manner of giving and serving notices required by this code or the rules;

(j) prescribing the fees payable for permits and licenses issued under this code for which ~~no~~ fees are not prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules;

(k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary for the obtaining of alcoholic beverage licenses and the books and records to be kept and the returns to be made by the licensees;

(l) specifying and describing the place and the manner in which alcoholic beverages may be lawfully kept or stored;

(m) specifying and regulating the time when and the manner by which vendors and brewers may deliver alcoholic beverages under this code and the time when and the manner by which alcoholic beverages, under this code, may be lawfully conveyed or carried;

(n) governing the conduct, management, and equipment of any premises licensed to sell alcoholic beverages under this code;

(o) providing for the imposition and collection of taxes and making rules respecting returns, accounting, and payment of the taxes to the department.

(3) The department of justice may adopt rules to administer and implement its responsibilities under this title, including but not limited to rules providing for the inspection of licensed premises or premises where the sale of liquor has been proposed.

(4) Whenever this code provides that an act may be done if authorized by rules, the department, subject to the restrictions in subsection (1), may make rules respecting the act.

(5) The department shall use the negotiated rulemaking procedures contained in Title 2, chapter 5, for the purpose of adoption of rules related to the operation of agency liquor stores. However, the

department may not be required to pay any expenses of the participants or of any persons engaged in the rulemaking process as provided for in 2-5-110."

Section 18. Section 16-1-304, MCA, is amended to read:

"**16-1-304. Prohibited acts.** (1) An employee of the department involved in the operation of the state liquor warehouse ~~or state liquor stores~~, the issuance of licenses, or the collection of alcoholic beverages taxes or an employee of the department of justice directly involved with the investigation of matters concerning the manufacture, sale, and distribution of alcoholic beverages may not be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor ~~or table wine~~, whether as owner, part owner, partner, member of syndicate, shareholder, agent, or employee for the employee's own benefit or in a fiduciary capacity for some other person.

(2) An employee of the state, a state agent, or any person having any ownership interest in an agency liquor store may not solicit or receive directly or indirectly any commission, remuneration, ~~or~~ gift, or other thing tangible or intangible of value from any person or corporation selling or offering liquor ~~or table wine~~ for sale to the state pursuant to this code.

(3) A person selling or offering for sale to or purchasing liquor ~~or table wine~~ from the state may not directly or indirectly offer to pay any commission, profit, or remuneration or make any gift to any ~~member or~~ employee of the state, any state agent, or any person having any ownership interest in an agency liquor store or to anyone on behalf of ~~the member or~~ an employee.

(4) The prohibition contained in subsection (3) does not prohibit the state from receiving samples of liquor ~~or table wine~~ for the purpose of chemical testing, subject to the following limitations:

(a) Each manufacturer, distiller, compounder, rectifier, importer, or wholesale distributor or any other person, firm, or corporation proposing to sell any liquor ~~or table wine~~ to the state of Montana shall submit, without cost to the state prior to the original purchase, an analysis of each brand and may submit a representative sample not exceeding 25 fluid ounces of the merchandise to the state.

(b) When a brand of liquor ~~or table wine~~ has been accepted for testing by the state, the state shall forward the sample, unopened and in its entirety, to a qualified chemical laboratory for analysis.

(c) The state shall maintain written records of all samples received. The records must show the brand name, amount and from whom received, date received, the laboratory or chemist to whom forwarded, the state's action on the brand, and the person to whom delivered or other final disposition of

the sample.

(5) Liquor~~, wine, or other alcoholic beverage~~ may not be withdrawn from the regular warehouse inventory or from the ~~state~~ agency liquor stores for any purpose other than final sale to the consumer at the prevailing state retail prices or for destroying damaged or defective merchandise. The state shall maintain a written record including the type, brand, container size, number of bottles or other units, signatures of witnesses, and method of destruction or other disposition of damaged or defective warehouse ~~or state store~~ merchandise.

(6) The state may not require a company that manufactured, distilled, rectified, bottled, or processed and sold less than 200,000 proof gallons of liquor nationwide in the previous calendar year to maintain minimum amounts of liquor ~~or wine~~ in the state warehouse while the distiller ~~or winery~~ retains ownership of the product.

~~(7) The state may not require a company that bottled and sold less than 100,000 wine gallons of table wine nationwide in the previous calendar year to maintain minimum amounts of table wine in the state warehouse while the company retains ownership of the product.~~"

Section 19. Section 16-1-402, MCA, is amended to read:

"**16-1-402. Payment of excise tax by carriers.** (1) Every airline or railroad operating in the state of Montana and selling liquor purchased outside this state for consumption within this state shall pay to the department the excise taxes and state markup ~~which~~ that would be applicable to ~~such~~ the liquor if purchased from ~~the~~ an ~~state~~ agency liquor store.

(2) The amount of ~~such~~ excise taxes and state markup payable ~~shall~~ must be determined by multiplying the following factors:

(a) the average liquor used per departure;

(b) the number of departures from Montana on which liquor is served;

(c) the ratio of Montana revenue passenger miles to system revenue passenger miles; and

(d) the applicable excise tax and state markup rates.

(3) From ~~said~~ the product, the carrier shall subtract the amount of excise taxes and state markup on purchases of liquor made within this state."

Section 20. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of ~~state~~ agency liquor stores -- agency franchise agreement -- kinds and prices of liquor ~~and table wine~~. (1)~~(a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the rules adopted under this code.~~

~~(b)~~ The department shall enter into ~~an~~ agency franchise ~~agreement~~ agreements ~~or employ the necessary help~~ to operate ~~the~~ agency liquor stores as the department finds feasible for the sale of liquor ~~and shall designate the duties to be performed by the agent or employees~~.

~~(c) Once established, a store may not be closed, converted to an agency store, or sold by the department unless:~~

~~(i) the store is returning less than a 10% profit to the state; or~~

~~(ii) the closure or sale is approved by the legislature.~~

(2)(a) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor ~~and table wine~~ may be sold, and prices must be the same at all ~~state~~ agency liquor stores.

(b)(i) The department shall supply from the state liquor warehouse to agency liquor stores the various classes, varieties, and brands of liquor for resale at the state posted price.

(ii)(A) According to the ordering and delivery schedule set by the department, an agency liquor store may place a liquor order with the department at its state liquor warehouse in the manner to be established by the department.

(B) The agency liquor store's purchase price is the department's posted price less the agency liquor store's commission rate in the state agency franchise agreement and less the agency liquor store's weighed average discount ratio. For purposes of this subsection (2)(b)(ii)(B), for agency liquor stores or employee-operated state liquor stores that were operating June 30, 1994, the weighted average discount ratio is the ratio between an agency liquor store's or the employee-operated state liquor store's full case discount sales divided by the agency liquor store's or employee-operated state liquor store's gross sales, based on fiscal year 1994 reported sales, times the state discount rate for case lot sales, as provided in 16-2-201, divided by the state discount rate for full case lot sales in effect on June 30, 1994. For all other stores that are placed in service after June 30, 1994, the weighted average discount ratio is the average ratio in fiscal year 1994 for similar sized stores for 1 year of operation. Thereafter, the weighted discount ratio must be computed on the store's first 12 months of operation.

(C) All liquor purchased from the state liquor warehouse by an agency liquor store must be paid for within 60 days of the date on which the department invoices the liquor to the agency liquor store.

(c) An agency liquor store may sell table wine at retail for off-premises consumption.

(3) ~~(a) State liquor stores must be considered for closure, conversion, or sale only when a store lease expires. Prior to the expiration of a lease, the department may conduct a financial profitability analysis using the criteria in subsection (1)(c)(i). In computing profit levels of state-operated stores, the costs of the licensing bureau and the legal and enforcement division, other than inspection costs directly attributable to liquor stores, may not be included as expenses. The revenue oversight committee must be informed of all plans for conversion, sale, or closure of state liquor stores.~~

~~(b)~~ Agency liquor stores may not be located in or adjacent to grocery stores in communities with populations over 3,000. ~~This provision is applicable only to agency agreements entered into after May 11, 1987.~~

(4) Agency stores must receive commissions ~~based on adjusted gross sales~~ payable as follows:

(a) a 10% commission for agencies in communities with less than 3,000 in population, unless adjusted pursuant to subsection (6) or (8);

(b) a commission established by competitive bidding unless adjusted pursuant to subsection (6) or (8) for agencies in communities with 3,000 or more in population.

(5) An agency franchise agreement must:

(a) be effective for a 10-year period and may be renewed every 10 years if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and

(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement~~.~~;

(c) ~~require the agent to provide performance security in an amount equal to the average monthly value of inventory at cost based on the most recent 12-month period of inventory value at the agency store location or, if a 12-month history is not available, the department's estimate of the average value~~ provide

that upon termination by the department for cause or upon mutual termination, the agent is liable for any outstanding liquor purchase invoices. If payment is not made within the appropriate time, the department may immediately repossess all liquor inventory, wherever located~~; and~~.

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6)(a) The commission percentage that the department pays the agent under an agency franchise agreement may be reviewed on July 1, 1998, and every ~~5~~ 3 years thereafter at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement or until the next time the commission percentage is reviewed, if that is sooner than the term of the agency franchise agreement, to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:

~~(a)~~(i) the agent's commission percentage is less than the average; and

~~(b)~~(ii) all the requirements of the agency franchise agreement have been satisfactorily performed.

(b) The adjusted commission percentage determined under subsection (6)(a) may be greater than the average commission paid agents with similar sales volume:

(i) if the agent demonstrates that:

(A) the agent has experienced cost increases that are beyond the agent's control, including but not limited to increases in the federally established minimum wage or escalation in prevailing rent; and

(B) the average commission percentage is insufficient to yield net income commensurate with net income experienced before the cost increases occurred; and

(ii) if the department demonstrates that it is unable to indicate adjustments in the requirements specified in the agent's franchise agreement that will eliminate the impact of cost increases.

(7) The liability insurance ~~and performance security requirements~~ requirement may be reviewed every ~~5~~ 3 years after July 1, 1995, at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the ~~loss of state assets or from the~~ agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of liability insurance coverage may not be less than the minimum requirements of the department of administration.

(8) (a) Except as provided in subsection (8)(b), an agency franchise agreement must be renewed

for additional 10-year periods if the agent has satisfactorily performed all the requirements of the agency franchise agreement. Except for establishing the new term and except for a commission percentage that may be negotiated as provided in subsection (8)(b), changes in the agency franchise agreement as a result of a renewal may not be made unless the agent and the department mutually agree.

(b) If at least 90 days prior to the expiration of a 10-year agency franchise agreement, the department determines that an adjustment of the commission percentage paid to the agent is in the best interests of the state, the department shall notify the agent of that determination.

(c) If the agent does not concur with the department's commission percentage adjustment, the department shall advertise for bids for the agency franchise at the adjusted commission percentage, subject to the provisions of this chapter. If bids from persons who meet the criteria provided in this chapter are received by the department for the agency franchise at the adjusted commission percentage, the agent under the existing franchise agreement has a preference right to renew the franchise agreement by concurring in the adjusted commission percentage.

(d) If the agent under the existing franchise agreement declines to exercise the preference right under subsection (8)(c), the department shall enter into an agency franchise agreement as provided in this chapter with a person who accepted the adjusted commission percentage.

(e) If the agent exercises the preference right and believes the adjusted commission percentage to be inadequate or not in the best interests of the state, the agent may request an administrative hearing. The request must contain a statement of reasons why the agent believes the commission percentage to be inadequate or not in the state's best interests. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the adjusted commission percentage is inadequate or not in the state's best interests. The department may, after the hearing, adjust the commission percentage if the agent shows that the commission percentage is inadequate or not in the best interests of the state. If the department increases the commission percentage rate, the department shall set forth its findings and conclusions in writing and inform the agent and the other persons who offered to enter into an agency agreement at the adjusted commission rate.

(9)(a) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement ~~or in the following cases~~ because the agent:

(i) charges prices different from the state published price or provides different discounts;

(ii) fails to maintain sufficient liability insurance;

(iii) has not maintained a quantity and variety of product available for sale commensurate with demand, delivery cycle, repayment schedule, mixed case shipments from the department, and the ability to purchase special orders;

(iv) at an agency liquor store located 35 miles or more from the nearest agency liquor store, has operated the agency liquor store in a manner that makes the premises unsanitary or inaccessible for the purpose of making purchases of liquor; or

(v) fails to comply with the express terms of the agency franchise agreement.

(b) The department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the termination and request a hearing within 30 days of the date of notice. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

~~(a)~~ (c) ~~Except in~~ In the case of failure to make timely payments to the department for liquor purchased ~~suspected theft or unauthorized use of state assets, the department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the agency franchise agreement termination and request a hearing within 30 days. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.~~

~~(b) If an agent is suspected of theft or unauthorized use of state assets~~, the department may terminate the agency franchise agreement and ~~retrieve its assets~~ immediately repossess any liquor purchased and in the possession of the agent. If an agency franchise agreement is terminated, the agent may contest the ~~agency franchise agreement~~ termination and request a hearing within 30 days of the department's ~~retrieval of assets~~ repossession of the liquor. The agency store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

(10) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

(11) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent

shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

~~(12) An agency agreement in effect on March 30, 1993, must be converted upon request of the agent and approval of the department to a 10-year agency franchise agreement pursuant to subsections (5) through (11) without competitive bids or proposals.~~

(12) A person or entity may not hold an ownership interest in more than one agency liquor store.

(13) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%."

Section 21. Section 16-2-104, MCA, is amended to read:

"**16-2-104. Hours.** (1) ~~State~~ Agency liquor stores ~~shall be and~~ may remain open during ~~such period of the day as the department shall deem advisable~~ the period between 8 a.m. and 2 a. m. The stores ~~shall~~ must be closed for the transaction of business on legal holidays and between the close of normal business Saturday ~~p.m.~~ afternoon up to the opening of normal business Tuesday ~~a.m.~~ morning ~~as set by department rule~~.

(2)(a) An agency liquor store may be open on Mondays that are not legal holidays if 51% of the all-beverages licensees within the agency liquor store's immediate market area sign a petition agreeing that agency liquor stores located within the immediate market area may be open on Mondays. The petition must be on a form prescribed by the department. The department shall verify the validity of the signatures on the petition. If the department determines that the petition contains sufficient valid signatures, all agency liquor stores within the designated market area must be allowed to transact business on Mondays that are not legal holidays. To determine the number of signatures needed, the department shall round up to the nearest whole number any fractional number of all-beverages licensees.

(b) For the purposes of subsection (2)(a), immediate market area means:

(i) the city limits for stores located in incorporated cities or towns; and

(ii) the area contained within a 5-mile radius from a store or stores located in unincorporated cities or towns or in a consolidated local government.

~~(2) No sale or delivery of liquor or table wine shall be made on or from the premises of any state liquor store nor shall any store be open for the sale of liquor or table wine:~~

~~(a) on any holiday recognized by state law;~~

~~(b) during such other period and on such other days as the department may direct.~~"

Section 22. Section 16-2-105, MCA, is amended to read:

"**16-2-105. Place and time of selling liquor.** ~~No~~ A liquor store ~~manager~~ agent and ~~no~~ a person acting as ~~the clerk or servant~~ an employee of or in any capacity for any ~~manager shall~~ agent may not sell liquor in any other place or at any other time or otherwise than as authorized by this code and the rules implementing this code."

Section 23. Section 16-2-106, MCA, is amended to read:

"**16-2-106. Purchase price in advance.** A liquor store ~~manager~~ agent may sell to any person ~~such~~ any liquor and table wine ~~as~~ that the person is entitled to purchase in conformity with the provisions of this code and the rules ~~made thereunder, provided that no delivery shall take place until the purchaser has paid the purchase price~~ implementing this code. An agent may, under the terms and conditions that the agent establishes, deliver liquor and table wine purchased from the agent's agency liquor store."

Section 24. Section 16-2-107, MCA, is amended to read:

"**16-2-107. No open alcoholic beverage container or alcoholic beverage consumption on premises of ~~state~~ agency store.** ~~No officer, clerk, or agent of the department employed in a state~~ An agent and the agent's employees in an agency store ~~shall~~ may not allow any alcoholic beverage container to be opened on the premises of ~~a state~~ an agency liquor store or allow any alcoholic beverage to be consumed on the premises of ~~a state~~ an agency liquor store, nor ~~shall~~ may any person open an alcoholic beverage container or consume any alcoholic beverage ~~on such premises~~ in an agency liquor store."

Section 25. Section 16-2-108, MCA, is amended to read:

"**16-2-108. Disposition of money received.** ~~All money received from the sale of liquor and table wine at the state liquor stores must be deposited in the enterprise fund in the state treasury to the credit of the department.~~ The department may purchase liquor ~~and table wine~~ from money deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses, subject to the limits imposed by legislative appropriation. ~~No~~ An obligation created

or incurred by the department may not be a debt or claim against the state of Montana but must be payable by the department solely from funds derived from the operation of state liquor ~~stores~~ sales. The department shall pay into the state treasury to the credit of the enterprise fund the receipts from the sale of liquor and all taxes and license and permit fees collected by it. Taxes, license and permit fees, and the net proceeds from the operation of state liquor ~~stores~~ sales must be transferred to the general fund."

Section 26. Section 16-2-201, MCA, is amended to read:

"**16-2-201. Reduction for quantity sales of liquor.** Reduction of ~~5%~~ 8% of the retail price of liquor sold at the ~~state~~ agency liquor store ~~shall~~ must be made by the department for sales of liquor to any ~~person~~ licensee purchasing liquor in unbroken case lots. No other reduction ~~shall~~ may be made to any other person by the department for quantity sales of liquor."

Section 27. Section 16-2-301, MCA, is amended to read:

"**16-2-301. Retail selling price on table wine -- tax on certain table wine.** ~~(1) The retail selling price at which table wine is sold either by the department, through a state employee-operated store, or by a commission agent who was appointed before April 30, 1987, including subsequent renewals of such appointment, and who elects to order table wine from the department is computed by adding to the statewide weighted average cost of table wine the tax and state markup as designated by the department.~~

~~(2)~~(1) The retail selling price at which table wine is sold ~~by a commission agent appointed by the department after May 1, 1987,~~ at an agency liquor store is as determined by the agent.

~~(3)~~(2) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table wine sold by a table wine distributor to an agent as described in subsection ~~(2)~~ (1). This additional tax must be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The department shall deposit the tax paid under this section in the general fund."

Section 28. Section 16-3-103, MCA, is amended to read:

"**16-3-103. Unlawful sales solicitation or advertising -- exceptions.** (1) ~~No~~ A person within the state ~~shall~~ may not:

(a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless

permitted to do so under rules that ~~shall be~~ are promulgated by the department to govern ~~such~~ the activities;

(b) canvass for or solicit orders for the purchase or sale of any beer or malt liquor except in the case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this code;

(c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with ~~such~~ the rules.

(2) This section does not apply to:

(a) the department, any act of the department, any ~~state~~ agency liquor store;

(b) the receipt or transmission of a telegram or letter by any telegraph agent or operator or post-office employee in the ordinary course of employment as ~~such~~ the agent, operator, or employee; or

(c) the sale and serving of beer in the grandstand and bleacher area of a county fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-111 or 16-4-204."

Section 29. Section 16-3-106, MCA, is amended to read:

"16-3-106. Conveyance of liquors, table wines, and beer -- opening alcoholic beverages during transit forbidden. (1) It ~~shall be~~ is lawful to carry or convey liquor or table wine to any ~~state~~ agency liquor store and to and from ~~any~~ the state liquor warehouse or any depot established by the department for the purposes of this code, and when permitted to do so by this code and the rules ~~made thereunder and in accordance therewith~~ promulgated under this code, it ~~shall be~~ is lawful for any common carrier or other person to carry or convey liquor or table wine sold by a vendor from ~~a state~~ an agency liquor store or to carry or convey beer, when lawfully sold by a brewer, from the premises ~~wherein such~~ where the beer was manufactured or from premises where the beer may be lawfully kept and sold to any place to which the ~~same~~ liquor, table wine, or beer may be lawfully delivered under this code and the rules ~~made thereunder~~ promulgated under this code.

(2) ~~No~~ A common carrier or any other person ~~shall~~ may not open, break, or allow to be opened or broken any package or vessel containing an alcoholic beverage or drink or use or allow to be drunk or used

any alcoholic beverage ~~therefrom~~ while being carried or conveyed."

Section 30. Section 16-3-307, MCA, is amended to read:

"**16-3-307. Sale of liquor at less than posted price unlawful.** It ~~shall be~~ is unlawful for any licensee under the provisions of this code to resell any liquor purchased by ~~such~~ the licensee from ~~a state~~ an agency liquor store or the state of Montana for a sum less than the posted price established by the store and paid by the licensee ~~therefor~~."

Section 31. Section 16-3-401, MCA, is amended to read:

"**16-3-401. Short title -- public policy -- purpose.** (1) This part may be cited as the "Wine Distribution Act".

(2) The public policy of the state of Montana is to maintain a system ~~for the importation and sale of table wine by the state through state liquor facilities and~~ to provide for, regulate, and control the acquisition, importation, and distribution of table wine by licensed table wine distributors ~~and the state~~.

(3) This part governs relationships between suppliers and table wine distributors, and because the legislature recognizes the public interest and the interests of suppliers and table wine distributors in the fair, efficient, and competitive distribution of table wine, this part is intended to:

(a) protect the table wine distributor's independence in managing ~~his own~~ the distributor's business, including the establishment of selling prices; and

(b) encourage table wine distributors to devote their best efforts to the sale and distribution of the table wines they sell and distribute."

Section 32. Section 16-3-402, MCA, is amended to read:

"**16-3-402. Importation of wine -- records.** (1) ~~With the exception of table wine purchased by the department and shipped to its warehouse, all~~ All table wine manufactured outside of Montana and shipped into Montana ~~shall~~ must be consigned to and shipped to a licensed table wine distributor~~,~~ and ~~by him~~ be unloaded by the distributor into ~~his~~ the distributor's warehouse in Montana or subwarehouse in Montana. The distributor shall distribute ~~said~~ the table wine from ~~such~~ the warehouse or subwarehouse.

(2) The distributor shall keep records at ~~his~~ the distributor's principal place of business of all table wine~~,~~ including the name or kind received, on hand, sold~~,~~ and distributed. The records may at all times be

inspected by ~~any member or representative of~~ the department ~~of revenue~~.

(3) ~~Any table~~ Table wine ~~which~~ that has been shipped into Montana and that has not been shipped to and distributed from a warehouse of a licensed table wine distributor ~~or the department shall~~ must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of intoxicating liquor."

Section 33. Section 16-3-403, MCA, is amended to read:

"**16-3-403. To whom table wine distributor may sell.** (1) A table wine distributor may sell and deliver table wine purchased or acquired by ~~him~~ the distributor to:

(a) another table wine distributor, retailer, or common carrier ~~which~~ that holds a license issued by the department of revenue; and

(b) ~~the department~~ an agency liquor store~~; and~~

~~(c) a commission agent of the department~~.

(2) It ~~shall be~~ is unlawful for any table wine distributor to sell, deliver, or give away any table wine to be consumed on ~~such~~ the distributor's premises or to give, sell, deliver, or distribute any table wine purchased or acquired by ~~him~~ the distributor to the public."

Section 34. Section 16-3-411, MCA, is amended to read:

"**16-3-411. Domestic winery.** A winery located in Montana and registered pursuant to 16-4-107 may:

(1) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

(2) sell wine it produces at wholesale ~~to the department or~~ to wine distributors;

(3) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

(4) provide, without charge, wine it produces for consumption at the winery;

(5) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces; or

(6) obtain a special event permit under 16-4-301."

Section 35. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation ~~who~~ that is approved by the department as a fit and proper person, firm, or corporation to sell beer, except that:

(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of ~~such~~ those cities and towns ~~shall~~ must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of ~~such~~ the towns, not more than one retail beer license, which may not be used in conjunction with a retail all-beverages license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of ~~such~~ the cities or towns, one retail beer license for ~~each~~ every 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of ~~such~~ the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction thereof, and one additional retail beer license for ~~each~~ every additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in ~~such~~ incorporated cities and incorporated towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits ~~thereof~~ of the cities or towns, ~~shall govern~~ governs the number of retail beer licenses that may be issued for use within ~~such~~ the cities and towns and within a distance of 5 miles from the corporate limits ~~thereof~~ of the cities and towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both of ~~such~~ the incorporated municipalities and within a distance of 5 miles from their respective corporate limits ~~shall~~ must be determined on the basis of the combined populations of both of ~~such~~ the municipalities and may not exceed the ~~foregoing~~ limitations in this section. The distance of 5 miles from the corporate limits of any

incorporated city or incorporated town ~~shall~~ must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of ~~such~~ the city or town.

(c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110~~,~~ ~~which~~ that are in excess of the foregoing limitations ~~shall be~~ are renewable, but ~~no~~ new licenses may not be issued in violation of ~~such~~ these limitations;

(d) ~~such~~ these limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted ~~men's~~ persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if ~~such~~ the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits ~~thereof~~ of the city or town or for use at premises situated within any unincorporated ~~town shall~~ area must be ~~as~~ determined by the department in ~~the exercise of~~ its ~~sound~~ discretion, except that ~~no~~ a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of ~~such~~ the license is required by public convenience and necessity.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue ~~such~~ an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. A person holding a beer-and-wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, ~~shall mean~~ means automatic loss of the wine amendment license.

(3) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption only may be issued to any person, firm, or corporation ~~who~~ that is approved by the department as a fit and proper person, firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of ~~such~~ licenses that the department may issue is not limited by the provisions of subsection (1) ~~of this section~~ but ~~shall~~ must be determined by the department in ~~the exercise of~~ its ~~sound~~

discretion, and the department may in ~~the exercise of~~ its ~~sound~~ discretion grant or deny any application for any ~~such~~ license or suspend or revoke any ~~such~~ license for cause."

Section 36. Section 16-4-401, MCA, is amended to read:

"**16-4-401. *License as privilege -- criteria for decision on application.*** (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

~~(ii)~~(iii) the applicant or any member of ~~his~~ the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

~~(iii)~~(iv) the applicant is a resident of the state and is qualified to vote in a state election;

~~(iv)~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a ~~businessman~~ business person and citizen demonstrate that ~~he~~ the applicant is likely to operate ~~his~~ the establishment in compliance with all applicable laws of the state and local governments; and

~~(v)~~(vi) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection ~~(2)(a)(iii)~~ (2)(a)(iv);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) ~~of this section~~;

(iii) the corporation is authorized to do business in Montana; and

(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i) and (2)(a)(ii); and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

~~(ii)~~(iii) the applicant or any member of ~~his~~ the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

~~(iii)~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, ~~his~~ the applicant's rights have been restored;

~~(iv)~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a ~~businessman~~ business person and citizen demonstrate that ~~he~~ the applicant is likely to operate ~~his~~ the establishment in compliance with all applicable laws of the state and local governments; and

~~(v)~~(vi) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection ~~(3)(a)(iii)~~ (3)(a)(iv);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of

subsection (3)(b).

(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

~~(ii)~~(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, ~~his~~ rights have been restored;

~~(iii)~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a ~~businessman~~ business person and citizen demonstrate that ~~he is~~ the applicant likely to operate ~~his~~ the establishment in compliance with all applicable laws of the state and local governments;

~~(iv)~~(v) the applicant is not under the age of 19 years; and

~~(v)~~(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection ~~(4)(a)(ii)~~ (4)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a) of this section;

(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(iv) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (4)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (4)(b).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

Section 37. Section 16-6-107, MCA, is amended to read:

"**16-6-107. Disposal of forfeited alcoholic beverages -- report.** (1) If a court or hearing examiner orders the forfeiture of alcoholic beverages under this code or if a claimant to an alcoholic beverage under 16-6-105 or 16-6-106 fails to establish the claimant's right to the alcoholic beverage, the alcoholic beverage in question and the packages in which the alcoholic beverage is kept must be delivered to the department. The department shall determine the market value of each forfeited alcoholic beverage found to be suitable for sale in ~~the state~~ agency liquor stores and shall pay the amount determined to the state treasurer after deducting any expenses incurred by the department for transporting the forfeited alcoholic beverage to the state liquor warehouse. The alcoholic beverage suitable for sale in ~~a state~~ an agency liquor store must be taken into stock by the department and sold under the provisions of this code. All alcoholic beverages found to be unsuitable for sale in ~~state~~ agency liquor stores must be destroyed by the department.

(2) If an alcoholic beverage is seized by a peace officer, the officer shall report to the department in writing the particulars of the seizure."

Section 38. Section 16-6-303, MCA, is amended to read:

"**16-6-303. Sale of liquor not purchased from ~~state~~ agency liquor store forbidden -- penalty.** It is unlawful for any licensee to sell or keep for sale or have on ~~his~~ the licensee's premises for any purpose whatever any liquor except that purchased from ~~the state~~ an agency liquor store, and any licensee found in possession of or selling and keeping for sale any liquor ~~which~~ that was not purchased from ~~a state~~ an agency liquor store shall, upon conviction, be punished by a fine of not less than $500 or more than $1,500, by imprisonment for not less than 3 months or more than 1 year, or by both ~~such~~ fine and imprisonment. If the department is satisfied that ~~any such~~ the liquor was knowingly sold or kept for sale within the licensed premises by the licensee or by ~~his~~ the licensee's agents, servants, or employees, the department shall immediately revoke the license."

Section 39. Section 17-8-244, MCA, is amended to read:

"**17-8-244. Exemptions.** (1) Section 17-8-242 does not apply to the following:

~~(1)~~(a) interagency or intergovernmental transactions;

~~(2)~~(b) claims subject to a good faith dispute;

~~(3)~~(c) delinquencies due to natural disasters, disruptions in postal or delivery service, work stoppage due to labor disputes, power failures, or any other cause resulting from circumstances clearly beyond the control of the payer agency;

~~(4)~~(d) contracts entered into before October 1, 1983;

~~(5)~~(e) wages due and payable to state employees or payments from any state retirement system created pursuant to Title 19; or

~~(6)~~(f) claims submitted to the state or to its fiscal intermediary by providers of supplies or services under the Montana medicaid or workers' compensation program if reasonable cause for nonpayment exists.

(2) In the case of liquor withdrawn from bailment in the state liquor warehouse by the department of revenue for the purpose of resale through agency liquor stores, payment is timely if paid within 60 days after the product is withdrawn."

Section 40. Section 30-9-104, MCA, is amended to read:

"**30-9-104. Transactions excluded from chapter.** This chapter does not apply:

(1) to a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920, to the extent that ~~such~~ the statute governs the rights of parties to and third parties affected by transactions in particular types of property;

(2) to a landlord's lien;

(3) to a lien given by statute or other rule of law for services or materials except as provided in 30-9-310 on priority of such liens;

(4) to a transfer of a claim for wages, salary, or other compensation of an employee;

(5) to a transfer by a government or governmental subdivision or agency;

(6) to a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract, or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting

indebtedness;

(7) to a transfer of an interest or claim in or under any policy of insurance, except as provided with respect to proceeds (30-9-306) and priorities in proceeds (30-9-312);

(8) to a right represented by a judgment (other than a judgment taken on a right to payment which was collateral);

(9) to any right of setoff;

(10) except to the extent that provision is made for fixtures in 30-9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents ~~thereunder~~ under the lease;

(11) to a transfer in whole or in part of any claim arising out of tort; ~~or~~

(12) to a transfer of an interest in any deposit account (30-9-105(1)), except as provided with respect to proceeds (30-9-306) and priorities in proceeds (30-9-312); or

(13) to liquor in an agency liquor store as defined in 16-1-106."

NEW SECTION. **Section 41. Repealer.** Sections 16-2-302 and 16-2-303, MCA, are repealed.

NEW SECTION. **Section 42. Codification instruction.** [Sections 9 and 10] are intended to be codified as an integral part of Title 16, chapter 2, part 1, and the provisions of Title 16, chapter 2, part 1, apply to [sections 9 and 10].

NEW SECTION. **Section 43. Effective date.** (1) Except as provided in (2), [this act] is effective on passage and approval.

(2) [Section 24] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HE0574, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising liquor laws, providing for the conversion of employee-operated state liquor stores to agency liquor stores; providing that eligible state liquor store employees have a right of first refusal in becoming agents for the converted stores; providing for the purchase of liquor assets in stores by the agents operating the stores over an 18-month period; prohibiting new agency liquor stores for 4 years in cities or towns that had an agency liquor store in 1994; providing for a state lien on liquor in agency liquor stores; prohibiting a person from having an ownership interest in more than one agency liquor store; prohibiting an ownership interest in an agency liquor store by a person having another type of liquor license; providing for a bonus payment for certain state liquor division employees who remain in employment during the conversion process; amending laws relating to table wine to clarify the distribution and sale of table wine in relation to agency liquor stores; providing for the contractual and other administration of agency liquor stores; increasing the case discount on the sale of liquor to 8 percent and limiting the discount to alcoholic beverage licensees; providing that agency stores may be open on Mondays if a majority of the All-Beverages Licensees in the agency's market area agree; and providing effective dates.

ASSUMPTIONS:
1. The volume of liquor sold will be no different under the proposed legislation than under current law.
2. The elimination of the state's authorization to purchase and distribute table wine will not affect revenue since the state has not been exercising this authority.
3. The state will continue to set the price of a bottle of liquor sold at agency liquor stores in the same way it currently does.
4. Under the proposal the cost of commissions for the agents who will operate the 26 current state stores will equal the current operating expenses for those stores.
5. Under the proposal commissions will be paid via a reduction in the retail posted price of a bottle of liquor sold to agents. For clarity, this fiscal note reflects the change in commissions as an operating expense.
6. Increasing the full case discount rate from 5% to 8% effective on July 1, 1995 for liquor licensees will not increase the volume of full case sales.
7. The termination costs for state employees will include normal benefit payouts, bonuses as provided in HB574, and costs associated with the Employee Protection Act on the assumption that HB490 will be enacted. Employee Protection Act costs would include early retirement benefits and 6-mo health insurance coverage per employee.
8. Initial inventory maintained in a state liquor store under current law will be sold to the agent of that store under the proposal. The agent will pay for this inventory in 16 equal monthly installments.
9. The value of inventory at cost ($5.537 million), owned by the state in state liquor stores and in the central warehouse, will be transferred to the general fund by June 30, 1997 after expenditure of close-out costs for terminating employees and the retention of central office employees, between July 1, 1995 and December 31, 1995, who would otherwise be subject to reduction in force.
10. Reductions in FTE include 2.00 FTE which were included in the executive budget's proposed personal services reductions.

(continued)

Dave Lewis 3-1-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

William Rehbein Jr. 3-1-95
WILLIAM REHBEIN, PRIMARY SPONSOR DATE

FISCAL IMPACT:

Expenditures: (rounded to nearer $1000)

	FY96 Difference	FY97 Difference
Merchandising Expenses:		
FTE	(79.50)	(79.50)
Personal Services	(1,146,000)	(2,303,000)
Operating Expense	935,000	1,967,000
Depreciation	(45,000)	(45,000)
Inventory Loss	(55,000)	(55,000)
Total	(311,000)	(436,000)
Licensee Discounts:	402,000	410,000
Termination Costs:		
Benefits Payout	207,000	0
Bonuses	440,000	0
Early Retirement	214,000	0
6-mo Health Insurance	106,000	0
Inventory Writeoff	150,000	0
Total	1,117,000	0
Total Expenditures	1,208,000	(26,000)
Revenues:		
Inventory Reduction	1,208,000	4,329,000
Net Impact:		
Liquor Profits (General Fund)	0	4,355,000

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

There would be ongoing savings (increased revenues transferred to general fund) of approximately $26,000 per year.

2/22	FISCAL NOTE REQUESTED		
2/27	FISCAL NOTE RECEIVED		
2/28	FISCAL NOTE PRINTED		
3/20	HEARING		
3/21	COMMITTEE REPORT—BILL PASSED		
3/22	2ND READING PASSED	84	15
3/23	3RD READING PASSED	86	11
	TRANSMITTED TO SENATE		
3/24	FIRST READING		
3/24	REFERRED TO FINANCE & CLAIMS		
3/30	HEARING		
3/30	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

HB 574 INTRODUCED BY REHBEIN, ET AL.

GENERALLY REVISE LIQUOR LAWS

2/21	INTRODUCED		
2/21	FIRST READING		
2/21	REFERRED TO TAXATION		
2/22	FISCAL NOTE REQUESTED		
2/28	TAKEN FROM COMMITTEE		
2/28	REREFERRED TO BUSINESS & LABOR		
3/01	FISCAL NOTE PRINTED		
3/02	HEARING		
3/06	TABLED IN COMMITTEE		
3/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/10	2ND READING PASSED AS AMENDED	63	37
3/14	3RD READING PASSED	60	35
	TRANSMITTED TO SENATE		
3/15	FIRST READING		
3/15	REFERRED TO BUSINESS & INDUSTRY		
3/21	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/03	2ND READING CONCURRED	25	21
4/04	3RD READING CONCURRED	27	23
	RETURNED TO HOUSE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS CONCURRED	73	23
4/07	3RD READING AMENDMENTS CONCURRED	61	32
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 530		
	EFFECTIVE DATE: 04/25/95—SECTIONS 1-25 & 27-44		
	EFFECTIVE DATE: 07/01/95—SECTION 26		

HB 575 INTRODUCED BY RANEY

GENERALLY REVISE LAW REGARDING ADMINISTRATION, GOALS, AND BUDGET PRIORITIZATION OF FISHERIES DIVISION OF DEPARTMENT OF FISH, WILDLIFE, AND PARKS

2/21	INTRODUCED
2/21	FIRST READING
2/21	REFERRED TO APPROPRIATIONS
2/22	FISCAL NOTE REQUESTED
3/01	FISCAL NOTE RECEIVED
3/01	FISCAL NOTE PRINTED
3/24	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0574, as introduced

SCRIPTION OF PROPOSED LEGISLATION:

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- The value of inventory at cost ($5.537 million), owned by the state in state liquor stores and in the central warehouse, will be transferred to the general fund by June 30, 1997 after expenditure of close-out costs for terminating employees and the retention of central office employees, between July 1, 1995 and December 31, 1995, who would otherwise be subject to reduction in force.
- Reductions in FTE include 2.00 FTE which were included in the executive budget's proposed personal services reductions.

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Dave Lewis 3-1-95

VE LEWIS, BUDGET DIRECTOR DATE
fice of Budget and Program Planning

William Rehbein Jr. 3-1-95

WILLIAM REHBEIN, PRIMARY SPONSOR DATE

FISCAL IMPACT:

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LONG RANGE EFFECTS OF PROPOSED LEGISLATION:
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HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 3-2-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority			
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella			
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

Proponents' Testimony:

Greg Chadwick, Vice President, Montana Nurserymans Association, said they supported this bill.

Gary Gingery, Montana Department of Agriculture, said they supported this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ALVIN ELLIS said the window in the bill stated a figure of $5000 and amended down to $3000. A 10% license fee is excessive for a person of $1000 gross sales. It makes it unprofitable. What was the justification for lowering that figure. **Mr. Devlin** said there were negotiations made while drafting the bill the amount was lowered. **Mr. Chadwick** said by having inspections on the crops there is protection.

Closing by Sponsor:

The sponsor closed.

HEARING ON HB 574

Opening Statement by Sponsor:

REP. WILLIAM REHBEIN, HD 100, Richland County said this bill is a liquor privatization proposal. The difference in this bill was evolved in its preparation by representatives from major groups which would be affected by its passage.

Proponents' Testimony:

Mick Robinson, Director, Department of Revenue gave a detailed explanation of the bill. He also provided a description of the state liquor retail privatization proposal which included background, what was proposed and how will retail privatization be accomplished, why privatization was intended, will the price of liquor change, will the variety of liquor products change, will the number of agency liquor stores change, what days and hours can agencies be open, how will an agent's commission rate be established, how do agents get paid their commissions, how do agents get compensated for full case discount sales, how will agents purchase the in-store inventory currently owned by the state and what happens to state employees affected by this legislation. **EXHIBIT 1**

Bob Gilbert, Montana Agency Liquor Store's Association, said this bill was based upon the Agency Liquor Franchise Act of 1993 which

took the state from a three-year contract where bidders could bid against the agents. Whoever received the low bid received the contract regardless of a person in business or a person out of business. There was no option for the current agent to retain their business and match that bid. That was changed in 1993. The group supported the concept. One of the positive points of the bill is the purchase of the stock interest free. Some members of the organization do not support the bill. The alternatives are not good.

Mark Staples, Montana Tavern Association, said the state must take some degree of privatization with full conversion to agency stores.

Dave Brown, Restaurant and Lounge Coalition, proposed some amendments to the bill. He also stated as with all businesses in Montana, the restaurant and lounge industry is dependent on decisions of state government. Timeliness in government decision making plays a significant role in the success or failure of business, whether it be coal or hard rock mining, water quality or health matters, agriculture, or any other aspect of the mix of business and regulatory compliance. The Department of Revenue is bound by only one time which would be consistent in making decisions on granting or denying new liquor licenses or the transfer of existing ones. Government must be responsive to private sector investment and capital outlay. **EXHIBITS 2 and 3**

REP. LARRY GRINDE, HD 94, Fergus County, said the saga of liquor privatization moves on one more time. It is time to settle the situation. He described the negotiations involved in the drafting this bill. The state employees involved in the state stores were considered in this bill also. These agents came out with everything possible that could be done with privatization. They have first refusal, they will receive insurance and many other benefits. The Tavern Association was well represented and came with honesty and dealt with the situation. The union representatives were also in attendance. The last meeting attended by the union members indicated their approval of the bill. There was 100% say in this bill from every sector that was involved. The union people are not satisfied.

Opponents' Testimony:

Don Judge, Montana State AFL-CIO, said they opposed this bill. Although organized labor remains opposed to privatization of the state's liquor store system, they were also responsible for the drafting of the bill. This bill does represent a much better and well thought out method for privatizing the system than any previously considered legislation. However, this bill would secure the right of first refusal for current employees to purchase the state stores. This will result in employees losing their jobs, suffer possible loss of retirement and suffer economic dislocation as a result. Whenever that happens, the collateral impact can include family breakups, increased health

problems and greater reliance on public assistance. This bill will not increase revenue to the state. This bill also limits and caps the percentage of profits which may be made by the newly privatized stores, as well as current agency stores. There is the possibility of reducing the variety and availability of exotic spirits to the consuming public. **EXHIBIT 4**

TAPE 1, SIDE B

Brian Harris, Northwest Regional Director, Distilled Spirits Council, said they were not in opposition to the concept. They opposed the bill because distillers under the bailment system would delay payment for the product to distillers for thirty days. This bill would carry that time limit to sixty days. The distillers provide the state with their product and don't get paid for sixty days. Retailers are required to pay within seven days. If retailers purchase liquor from state agencies they are required to pay upon purchase. The consumer pays immediately. There is no other industry that is being asked to provide and supply their product for distribution and sale and wait sixty days to be paid. That is unfair. The industry was never on the committee. A consumer pays 57% for taxes on liquor. The variety of liquor will go down considerably.

Mary Schuler, Manager #8, Livingston, said the state, with this bill, still controls the warehouse, sets the frequency of delivery, maintains a 40% markup, sets the retail price, denies advertising even on sales, approves the size and location of the store, controls the products that can be carried in the store, establishes the percentage of the sales to the licensees as it does now. This is not a privatization.

Mark Asbury, Agency 171, Wilsall, said he provides the agency store for the community of Wilsall as a service to the community. He has no objection to the bill as it stands or the thought of privatization. He wished to amend the bill to increase the commission and the length of time to buy out the initial inventory. The state is saving money by this bill. None of the savings are being passed on to the retail outlets to promote growth, cover the cost of money, provide any return on investment or make an agency a desirable business to operate. Commissions should be increased to 18%, eliminate case discounts to the agency, increase buyout of inventory to three years with full bonding for this period. This is not privatization, this is merely a shifting of the inventory liability. **EXHIBIT 5**

Ed Rizer, Clerk, Agency 9, Bozeman, said the last time this issue was brought forth in the legislature, the Department of Revenue was handed a legislative mandate stating if the stores made at least a 10% profit the privatization would not occur. The remaining stores have done this yet privatization will occur in this bill. He then said the Governor could not sign this legislation because it abolishes union representation and any benefits to the workers. This is a right-to-work in disguise.

Dan Felska, Agency 33, Conrad, said he was not against privatization but there is no incentive with this bill. This bill will end up costing the state more than what it is doing today in trying to find vendors.

Bea Lunda, Agency 29, Shelby, said 10% commission is not sufficient to operate an agency store. The delivery of liquor from agency stores needs to be struck from this bill and agencies need to continue to operate as they presently do. Licensees are in need of additional discount for quantity purchases. The method of paying the agents must be adjusted to cover additional sales anticipated by this further reduction in price. **EXHIBIT 6**

George Hagerman, Executive Director, American Federation of State, County and Municipal Employees, AFL-CIO, said they do not represent workers who will be affected by this privatization bill. This legislation does not promote or protect the public interest, it does not save the public any money or in any way benefit the public. Liquor division employees have made money for the state, both in the liquor stores and the liquor warehouse. Jobs will be privatized by this bill under the guise of saving the public money and improving services to the public. **EXHIBIT 7**

Informational Testimony:

Joseph Gough, EXHIBIT 8; Sandra Lee, EXHIBIT 9; Gary Crane, EXHIBIT 10

Questions From Committee Members and Responses:

REP. BOB PAVLOVICH said he had been in the business over 41 years. If he should want to apply for an agency store and is accepted, which may default if he should want to sell it, what happens. **Mr. Robinson** said yes he could become the owner of an agency store. He said he would be pre-empted under the bill from doing both; owning a retail liquor license as well as owning a retail liquor store. He could not do both. He must either resell the liquor license a second time or move out of the agency franchise.

REP. PAVLOVICH questioned the prohibiting of grocery stores from having liquor. **Gary Blewett, Administrator, Liquor Division, Department of Revenue,** said the current law unchanged which states any community over 3000 population, an agency may not be located in or adjacent to a grocery store. The law does allows an agency liquor store to be located in a grocery in communities that are smaller.

REP. GRINDE (Ex-officio member of the Committee) said as these negotiations were commencing, **Mr. Thomas** was present at all times, sitting in the back of the room. He asked him to tell the committee about the process and what he felt about drafting of this legislation. **Leo Thomas, Agency #1, Helena,** said the way

the situation was handled the job was done well. He said he had a problem with the privatization. It is not really privatization. All that is being accomplished is shifting full time employees out of jobs into privatization. The whole operation which they have done was a good job. He felt the dollar amount that smaller stores are talking about is too low. If they are going to privatize by getting out of the system the state should collect the tax dollar and let the people operate. They cannot control the dollar and the people and call this privatization.

REP. GRINDE said he agreed this was not true privatization. If they did go to true privatization and these stores were put out without first option. **Mr. Thomas** said if that would happen he said they would have to agree with that. He said he was, at the present time, looking to take the store over. He said he was not going to deny that. They do not adjust prices, they buy and sell as the state dictates, if the state decides the agency operation is not to their specifications, they may stop the operation.

REP. GRINDE said after watching these negotiations and going to these meetings, he asked if he still intended to be an agency store? **Mr. Thomas** said yes.

REP. GRINDE said he had been confused by some of the testimony. The opponents indicated the spirit of alcohol was bad for society and this will create more problems with alcoholism. Then it was stated people would not have their favorite beverage. Can it be both ways? **Mr. Judge** said the only way for these people to make a profit would be to encourage increased consumption of alcohol. Under the current way the bill is drafted, if the profit level is limited to six, eight, ten percent of the stores' gross income, the only way to improve return is to sell more liquor. He then said the other side of that spectrum is for the customer in the decrease in the variety and quantity of selection which is available. That will come about with two reasons. The Liquor Division is going to downsize the current inventory at those stores and getting rid of "cats and dogs," the things that don't turn over on a routine regular basis which will mean the customer will see less of a variety unless they special order.

REP. GRINDE said he felt it was agreed by all parties that most of these things the agencies themselves agreed upon were not needed. **Mr. Judge** said that was accurate. The Department indicated there might be a considerable amount in terms of dollars. It was going to bring down the actual cash income in the state upon privatization to something in the neighborhood of $3 million than $4 million.

REP. GRINDE said he would agree this is not pure privatization. What would pure privatization be in the liquor business? **Mr. Judge** said it would be cause in the state of Montana. Some of the opponents who had testified from the agency stores and not from the state stores outlined the difficulty they will have in

continuing to operate those agency stores if they are required to purchase the inventory at the end of eighteen months. There is no way to privatize those stores and not cost the state money and not raise the price to the consumer. It will create some opposition from the tavern owners.

REP. GRINDE said he was aware of the reasons against privatization. Under pure privatization, what would the union people in the state owned stores do? **Mr. Judge** said most of these people would be looking for other jobs. There would be a greater potential for a monopolistic, large money, political posture in the state.

REP. LARSON stated, as a point of order, asked the committee to return to the body of the bill. There are many other committee members with questions.

REP. GRINDE said he would be glad to yield and felt the discussion was on the body of the bill. He then said the reason for not drafting for pure privatization, and he agreed with all of the statements, was to help state employees or union members have a first chance to take these stores over, be employed so they would not be put out on the street. **Mr. Judge** said that was a piece from labor's perspective. The Tavern Owners Association did not want pure privatization because they felt predatory practices with regard to pricing availability, delivery and service might impact specific tavern owners into the favor of others and the detriment of some and the current agency stores were opposed because they felt simply granting anybody the opportunity to have a license is going to devaluate the current agencies. They have the ability to make an income.

REP. GRINDE said he would yield to **REP. LARSON** although he said he felt his questions were very pertinent to what went on. This bill was set up to satisfy everybody and finding the problem with it would go against the bill which they helped to write.

REP. OHS asked if there was a provision which the state would buy back liquor which is not sold over a certain period of time. **Mr. Blewett** said all of the inventory that is out in the state stores is owned by the state. There are some volumes that will not sell and the state does pull that back.

REP. LARSON asked what if an agent does not want to buy the store or the state employee cannot buy the store? **Mr. Blewett** said the procedure currently in place is to advertise in the newspaper, both in the locality and nearby areas that the agency is available and are requesting bids or proposals depending upon the size of the store. **REP. LARSON** asked where in the bill did it prohibit a beer and wine wholesaler or grocer from bidding on that store.

TAPE 2, SIDE A

Bruce McGinnis, Legal Division, Department of Revenue said grocery stores, on page 16 of the bill, stated the same type or prohibition against putting agency stores into or adjacent to grocery stores in communities with a population of 3000 or more is retained. A commission store could be placed in a grocery store if the population of the community was 3000 or less. There is a provision in the bill which is new language and would prohibit anybody who has any other type of liquor license or alcoholic beverage license of any kind, could not have ownership interest in an agency.

REP. LARSON said when negotiations for commissions are done will the existing contracts be honored. **Mr. Blewett** said yes. **REP. LARSON** asked how the contracts were negotiated. **Mr. Blewett** said they would not be negotiating. Their current commission rate would continue with the current agent. If they are a new agency that is rolling over to an employee that has already been calculated it is premised in law and is based on the current cost of operating store dividends by the gross sales in that store in FY94.

REP. ELLINGSON said there is a 16-month period for the payment of monthly installments of the initial inventory. Must there be payments spread over the 16 months of time or as the inventory is used is there a requirement that payment should be made. **Mr. Robinson** said the payment does not necessarily need to be made as the inventory is sold. It allows for interest-free financing of that inventory over 18 months. **REP. ELLINGSON** said in the final analysis there is a positive cash flow to the state as a result of this change to the system. That is predicated upon the accuracy of the projected operating expenses. Is that an accurate figure and what anticipated increases in operating expenses are shown. **Mr. Robinson** said the increase in operating expenses is simply an accounting chain because they are moving from a system which is a state-operated system.

REP. EWER asked what the sense of the intention was where the state was going as far as the financial impact to the state should be. **REP. GRINDE** said $4 million is going into the general fund. That is the key to the legislation. The rest of the money was to try to work as finances. The employees have a great opportunity. These stores can sell other things besides liquor. **REP. EWER** said the gain to the state is the one-time money gained from selling the inventory. The profit which the state had been capturing will go down. Has the fiscal impact of the state been analyzed from 1998. **REP. GRINDE** said the state is going to put up the $4.5 million. There will still be the liquor taxes, selling at a wholesale and they will still be getting revenues.

REP. ELLIS questioned the reduction of tax on inventory and the effect it would have on the state. **Mr. Robinson** said the profitability would be an add on to an ongoing business.

CHAIRMAN SIMON wanted to clarify when a product is received from the distillery is the freight costing added. There is also a 10% and 16% license tax and an excise tax and then the 40% markup. **Mr. Blewett** said it was the reverse. After freight there is a 40% markup and on top of markup there is a 26% tax, 10% of which is the license.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 243

Opening Statement by Sponsor:

SEN. BILL WILSON, SD 22, Cascade County, said this bill simply updates the skiers responsibility code to encompass snow boarders. The old skiers responsibility code that is mandatory for every ski area to possess is posted in a prominent location.

Proponents' Testimony:

Pat Melby, Montana Skiers Association, said he supported this bill.

Opponents' Testimony:

None.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON SB 243

Motion/Vote: **REP. JACK HERRON MOVED SB 243 BE CONCURRED IN. Motion carried 18-0.**

HEARING ON SB 201

Opening Statement by Sponsor:

SEN. JIM BURNETT, SD 12, Carbon County, said this bill concerns mining safety for workmen. The bill was originally drafted which would allow the company to test an employee for drugs following an accident which has caused a person personal injury or property damage exceeding $500. He then distributed amendments.

EXHIBIT 1
DATE 3-2-95
HB 574

DESCRIPTION
STATE LIQUOR RETAIL PRIVATIZATION PROPOSAL

2/22/95

Background: Since 1933 the State of Montana has not only controlled liquor sales through regulation, but has also maintained a monopoly on the public's access to liquor through a central warehouse located in Helena and up to 168 liquor stores located throughout the state. Currently there are 108 state liquor stores, 26 operated by state employees with the rest being operated by agents who are paid a commission on sales. The state also licenses private retailers to sell liquor for consumption on their licensed premises and for off-premises consumption (package sales). The number of retail licenses is limited by a quota system. Private retailers are required by law to purchase all the liquor they sell from a state liquor store. Licensees are not permitted to sell liquor at prices lower than state liquor store prices. While state liquor stores perform a wholesale function for licensees, the general public is permitted to purchase from state liquor stores at the same price available to licensees. Fifty-five percent of all state liquor store sales are to licensees.

What is proposed and how will retail privatization be accomplished? The liquor distribution system that is currently in place will remain unchanged for the most part. However, the 26 state liquor stores operated by state employees will be converted to stores operated under agency franchise contracts just as 82 agency stores are currently operating. The inventory that is now furnished by the state to agents will be purchased and owned by the agents; currently the state owns the inventory located in state stores and agencies. Agents will purchase the liquor they sell from the state warehouse at a price that is less than the state's posted retail price per bottle to cover an agent's commission and historical level of full case discounts granted at the store. Current agents will take over ownership of inventory on July 1, 1995. State employee operated stores will be converted to contract agencies that own the liquor inventory between July 1, 1995 and December 1, 1995. All store employees who have worked half time or more between July 1, 1994 and January 6, 1995 have first right of refusal to be the agent in the store they worked or in another store in the community if a store employee doesn't take up the option. If no employee takes up the agency offer, the agency will be advertised and go to the best qualified bidder. Procedures under current law will continue: no person can have any ownership interest in more than one agency; no liquor licensee may have an ownership interest in an agency; an agent may sell the agency franchise contract after state approval; agents must carry liability insurance indemnifying the state at levels specified by the state.

Why privatize the state retail liquor stores? The state drops 76.5 FTE from its control (69.5 FTE in stores and 7 FTE in the central office in Helena) and sheds costly inventory investment in state liquor stores. This conversion results in a one-time transfer of $4 million to the general fund. Since the State no longer will have assets or employees in liquor stores, it no longer will have to involve itself in the day-to-day management of stores or need to account for monthly inventory values. Agents will be free to be more entrepreneurial in the service they provide than previously allowed. For example, agencies will have the option of delivering liquor to licensees and other customers. Agencies can expand their product lines to include items other than liquor; however, current law continues to prohibit agencies located in communities with 3,000 or more inhabitants from being located in or adjacent to grocery stores.

Will the price of liquor change? The state will continue to set the price of a bottle of liquor sold at agencies in the same way it does now. The price will be the same at every agency liquor store throughout the state just as it is now. A uniform price prevents penalizing the more rural communities remote from the Helena warehouse with higher prices due to added freight costs while maintaining the economies that a single warehouse operation avails a large geographical state containing a relatively small population. The discount for full case purchases will change however. The discount will be available to liquor licensees only and will be increased from the current 5% discount to 8%. The new discount arrangement more clearly differentiates agency liquor stores' wholesale function from their retail walk-in trade function and acknowledges more adequately the volume and stability of stores' wholesale relationship with licensees.

Will the variety of liquor products change? Agency liquor stores will be required to carry the variety and quantity of products needed to meet demand in the community. Financial constraints on an agent's ability to invest in sufficient inventory to meet demand is eased considerably by a two-week delivery schedule to every agency liquor store, a 60-day interest free payment schedule, availability of some mixed case shipments from the warehouse, and the ability to special order products not carried as regular items in the warehouse. While entrepreneurial incentives will likely keep agents responsive to public demand for variety, the law provides for the central office to respond to complaints on a case-by-case basis.

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Will the number of agency liquor stores change? The proposed law establishes a quota for the number of agencies that can operate in a community. The number of agencies in a community varies with population as measured every two years by the Federal Census Bureau. Communities with 12,000 inhabitants or less can have one agency. For each increment of 40,000 inhabitants above 12,000, one additional agency is allowed. For example, communities between 12,001 and 52,000 inhabitants are allowed 2 agencies and communities between 52,001 and 92,000 inhabitants are allowed 3 agencies. The proposed law puts a moratorium on any additional agencies in communities that currently have one or more stores until after July 1, 1999. There is no moratorium for communities that do not currently have an agency liquor store and are more than 35 miles away from a community with an agency store.

What days and hours can agencies be open? Agencies will normally operate 5 days a week (Tuesday through Saturday) at least 6 hours a day (but not between the hours of 2 a.m. and 8 a.m.). Agencies will be closed on state holidays. If agents in a community obtain agreement from 51% of the liquor licensees, they can be open on Mondays as well.

How will an agent's commission rate be established? Current agents will initially continue with the commission rates they now have except that the commission will be based on the posted retail price of liquor rather than the price after full case discounts are applied. New agencies that will be operated by former state store employees will have a commission rate that is initially the store's direct operating expense in FY94 divided by the store's gross sales in FY94, not to exceed 10% nor to be less than 10% for stores in communities with less than 3,000 inhabitants (see table below for new agency initial rates). Rates can be adjusted upward every 3 years if an agency's rate is lower than peer agencies or extraordinary expenses are demonstrated and adjusted downward at the 10-year contract renewal if the state can demonstrate that it is in the state's best interest to do so.

Anaconda	8.55%	Butte 116	8.75%	Kalispell 12	9.08%	Missoula170	8.89%
Billings 3	8.18%	Glasgow	10.00%	Kalispell 195	9.80%	Missoula171	5.76%
Billings 4	5.88%	Glendive	9.24%	Laurel	10.00%	Polson	10.00%
Billings 196	7.37%	GreatFalls139	10.00%	Lewistown	8.92%	Red Lodge	10.00%
Bozeman 9	7.74%	GreatFalls141	7.56%	Libby	10.00%	Whitefish	7.27%
Bozeman193	8.26%	Havre	8.74%	Livingston	7.95%		
Butte 2	10.00%	Helena	7.42%	Miles City	8.25%		

How do agents get paid their commissions? The price of liquor purchased from the state warehouse will be reduced by the commission rate applicable to an agency. So when the agent sells a bottle of liquor at the state posted retail price, the agent earns the commission which is the difference between the agent's purchase price and the posted price. For example, an agent with a 10% commission will purchase a 12-bottle case of liquor that sells at a state posted retail price of $10 per bottle for $108 from the state warehouse; the sale of each bottle of liquor will produce a $1 commission.

How do agents get compensated for full case discount sales? The method is similar to commissions. Each agency has an historical full case discount percentage based on its experience in FY94 (discounts divided by gross sales). This discount percentage is adjusted for the increased discount rate (from 5% to 8%). In addition to the reduction for commission rate, liquor purchased from the state warehouse will be reduced by the adjusted discount rate applicable to an agency. So when the agent sells a bottle of liquor at the state selling price, the agent earns both the commission and the value of discounts on average. For example, an agent with discounts of $10,000 and gross sales of $1.0 million in FY94 will have an historical average discount ratio of 1% which after adjusting for the increase in the discount rate becomes 1.6%. Using the example bottle of liquor that sells for a state price of $10, an agent's purchase of a case would be reduced by $1.92 to offset on average the discounts that the agent will allow licensees on full case purchases. So, if the agent makes full case sales to licensees in the same proportion that occurred in FY94, the cost of discounts will be a wash.

How will agents purchase the in-store inventory currently owned by the State? Inventory on hand the day before the store or agency converts to the new law will be purchased by the agent at the agent's warehouse purchase price (state posted retail price less commission rate less discount rate). The agent will have up to 16 equal monthly installments to pay for this initial inventory beginning 60 days after the state bills the agent. A security bond equal to a 12-month average monthly inventory will be required until the initial inventory is paid for. The agent will have time between the effective date of this legislation and the conversion date (no earlier than July 1, 1995) to bring the inventory in the store to a level that the agent wants to have for the initial purchase. If difficult-to-sell, state-owned items are currently in a state store or agency, the central office will arrange to return the items to the warehouse. Agents will purchase subsequent replenishment of inventory at the agent's warehouse purchase price and have up to 60 days to pay for those purchases.

What happens to state employees affected by this legislation? All employees who will be subject to reduction in force (RIF) due to this legislation (76.5 FTE) will be afforded the benefits any other RIFed employee will get. Separate legislation has been introduced to provide training expenses, relocation expenses, state job preference, and 6 months paid health insurance or up to 3 years of PERS retirement addition for those eligible. Liquor division RIF's who have worked half time or more between July 1, 1994 and January 6, 1995 will also be paid a bonus if they continue their jobs until the conversion is completed. The bonus is 26.8% of an employees annual wage. State employees who work in a store and have worked as a store employee half time or more between July 1, 1994 and January 6, 1995 will have first right of refusal to become the new agent. If more than one store employee applies for the same store (i.e. each has a first right of refusal standing), the agent will be selected

EXHIBIT 2
DATE 3-2-95
HB 574

March 2, 1995

TESTIMONY BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE ON HOUSE BILL 574

Mr. Chairman and Members of the Committee:

For the record I am Dave Brown, 3040 Ottawa, Butte, MT, here today representing the Restaurant and Lounge Coalition. The Coalition I represent has no strong feelings either way about House Bill 574. I stand as a proponent because without this legislation we cannot offer this session an amendment about which I am here to visit with you and ask your consideration.

As with all business in Montana, the restaurant and lounge industry is dependent on decisions of state government. Timeliness in government decision making plays a significant role in the success or failure of business, whether it be coal or hard rock mining, water quality or health matters, agriculture, or any other aspect of the mix of business and regulatory compliance.

Currently, the Department of Revenue is bound by only one time constraint in making decisions on granting or denying new liquor licenses or transfer of existing ones. That single statutory requirement relates to the 30 days allowed to do an investigation into the backgrounds of applicants for a new license or transfer of an existing license. We would propose to you an amendment to this bill that would set very reasonable time limits for the Department of Revenue to respond to an applicant for a liquor license. I have checked with the Legislative Council staff as to the germaneness of this amendment

[illegible]	[illegible]					[illegible]	10.00%
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What happens to state employees affected by this legislation? All employees who will be subject to reduction in force (RIF) due to this legislation (76.5 FTE) will be afforded the benefits any other RIFed employee will get. Separate legislation has been introduced to provide training expenses, relocation expenses, state job preference, and 6 months paid health insurance or up to 3 years of PERS retirement addition for those eligible. Liquor division RIF's who have worked half time or more between July 1, 1994 and January 6, 1995 will also be paid a bonus if they continue their jobs until the conversion is completed. The bonus is 26.8% of an employees annual wage. State employees who work in a store and have worked as a store employee half time or more between July 1, 1994 and January 6, 1995 will have first right of refusal to become the new agent. If more than one store employee applies for the same store (i.e. each has a first right of refusal standing), the agent will be selected through a competitive process between the applicants. If there's more than one state store in a community and no store employee takes up the offer, employees from other stores in the community who have worked as a store employee half time or more will get the opportunity to be the agent. Competitive selection will also be used for this set of applicants if there are multiple applicants with this standing. Those who take up the first right of refusal get up to a year and a half to pay for the initial purchase of inventory.

and find that it fits within the title and scope of House Bill 574.

Presently, other than the 30 days allowed for investigation of an applicant, the Department is bound by no restrictions on the amount of time it might take to consider approval or denial of a new license or transfer of an old license. I have passed out an amendment that Representative Pavlovich has consented to carry in the Committee deliberations on HB-574 that would set some mutual parameters between the Department and an applicant as the process evolves. I see no difference in this approach from similar time periods for government response that the legislature has in the past set for the Montana Major Facility Siting Act or Health Department review relating to environmental degradation or review of hardrock mining permits or other controls to prevent undue government delay.

Let me explain the process:

1. A new applicant for a liquor license or someone wishing to transfer a license files a formal request with the Department of Revenue. This begins the current statutory 30 days for background investigation. After this 30 day period, if the Department finds no basis for denial of the license, under 16-4-207 the Department must publish in a newspaper of general circulation in the city, town or county from which the application comes a notice that the applicant has made application for retail license and requests those that object to let the Department know in writing of this opposition. On a new license this requires four publications on consecutive weeks; on a transfer request this occurs on each of two consecutive

weeks. Protest must be filed within 10 days after the final notice is published.

2. Under present law if no written protests are received, the department may issue or transfer the license without holding a public hearing. Under the proposed amendment on page two, the issuance or transfer of a license must be completed within 30 days of the last publication of public notice.
3. If there are protests, then the amendment directs the department, unless a later date is set by agreement between the applicant and the department, to hold a public hearing within 30 days of the last date of publication.
4. The process works as follows from this point after a public hearing held because of protests to the license transfer or issuance of a new license: a hearing examiner recommends a proposed decision for granting or denying the license request. Either way, proponents of both sides are allowed a time period for written exceptions to the hearing examiners proposed decision and/or a request for oral arguments before the Director who must make the final decision. There are no time constraints for any of this process and the applicant cannot go to district court to seek a review of a denial decision until the process is complete.
5. The amendments in the new sub (4) at the bottom of page 2 require that the hearing examiner reach a proposed decision within 60 days. Within 45 days of the expiration of the

time period for written exceptions or, if there are oral arguments, within 45 days after oral arguments are held, the department shall grant or deny a license application.

6. If the applicant believes he/she has been mistreated in the process, at this point they can seek redress in district court.

These amendments set up a very reasonable and to some extent, still too loose a departmental review. But at least there are some constraints placed on the department for timely review of license applications. I have many complaints in my coalition about the lack of timeliness of departmental review of a license application. These amendments were designed in an attempt to be fair to the department and the applicant and I believe they achieve that balance. If in the future, stricter guidelines are necessary, we will come back to the legislature and ask your consideration.

Government must be responsive to private sector investment and capital outlay. This does not mean they should roll over and play dead to the process of lecensing requirements. They should, however, be held accountable for failure to respond in a timely and prudent manner. That is all these amendments ask and require. I hope you will see fit to add them to House Bill 574.

Your time and consideration of this matter are much appreciated.

EXHIBIT 3
DATE 3-2-95
HB 574

Amendments to House Bill No. 574
First Reading Copy

Requested by Rep. Pavlovich
For the Committee on Business

Prepared by Lee Heiman
February 28, 1995

1. Title, line 20.
Following: "AGREE;"
Insert: "PROVIDING TIME LIMITS RELATING TO GRANTING OR DENYING A LICENSE;"

2. Title, line 23.
Following: "16-4-105,"
Insert: "16-4-207,"
Following: "16-4-401,"
Insert: "16-4-405,"

3. Page 28, line 3.
Insert: "**Section 36.** Section 16-4-207, MCA, is amended to read:

"16-4-207. Notice of application -- investigation -- publication -- protest. (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer a retail license, the department shall review the application for completeness and to determine whether the applicant or the premises to be licensed meets criteria provided by law. The department shall request that the department of justice investigate the application as provided in 16-4-402. If after the investigation the department does not discover a basis to deny the application, the department shall promptly publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail license and that protests against the issuance of a license to the applicant by a person who has extended credit to the transferor or residents of the county from which the application comes or adjoining Montana counties may be mailed to a named administrator in the department of revenue within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE

Notice is given that on the .... day of ...., 19.., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where beverages are to be sold). A person who has extended credit to the transferor and residents of ..... counties may protest against the issuance of the license. Protests may be mailed to ...., department of revenue, Helena, Montana, on or before the .... day of ...., 19...

Dated ..... Signed .....

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) If the administrator receives no written protests, the department may issue or transfer the license without holding a public hearing. If the issuance or transfer of a license is made without holding a public hearing, the issuance or transfer must be completed within 30 days of the last date of publication under subsection (1). If written protests by a person who has extended credit to the transferor or residents of the county from which the application comes or adjoining Montana counties against the issuance or transfer of the license are received, the department shall hold a public hearing. Unless a later date is set by agreement between the applicant and the department, the public hearing must be held within 30 days of the last date of publication under subsection (1)."

Renumber: subsequent sections

4. Page 31, line 5.

Insert: "**Section 38.** Section 16-4-405, MCA, is amended to read:

"**16-4-405. Denial of license -- timeliness.** (1) The department may deny the issuance of a retail alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) A retail license may not be issued by the department for a premises situated within a zone of a city or town where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) A license under this code may not be issued if the department finds from the evidence at the hearing held pursuant to 16-4-207(3) that:

(a) the welfare of the people residing in the vicinity of the premises for which the license is desired will be adversely and seriously affected;

(b) there is not a public convenience and necessity justification;

(c) the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code; or

(d) the purposes of this code will not be carried out by the issuance of the license.

(4) The hearings examiner shall issue a proposed decision to grant or deny a license within 60 days after holding a public hearing under 16-4-207. Within 45 days of the expiration of the time period for written exceptions or, if there are oral arguments, within 45 days after oral arguments are held before the department, the department shall either grant or deny a license application."

Renumber: subsequent sections

EXHIBIT 4
DATE 3-2-95
HB 574

Montana State AFL-CIO

Donald R. Judge
Executive Secretary

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624

406-442-1708

TESTIMONY OF DON JUDGE IN OPPOSITION TO HOUSE BILL 574 BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE MARCH 2, 1995.

Mr Chairman, members of the committee, for the record my name is Don Judge and I'm appearing here today in behalf of the Montana State AFL-CIO in opposition to House Bill 574, the so-called "privatization of state liquor stores" bill.

Let me say at the outset that we are not appearing here today to oppose the specific provisions contained in House Bill 574, but that our opposition is based, instead, on the very concept and potential results of privatizing the state's retail liquor store system.

Please allow me to explain. Although organized labor remains opposed to privatization of the state's liquor store system, we will admit that our organization and the unions which represent the state's liquor store employees were involved in the development of HB 574. In fact, I'd like to express our appreciation to the bill's sponsor, Rep. Rehbein, House Majority Leader, Rep. Grinde, and representatives of the Department of Revenue for their willingness to encourage the involvement and incorporate the concerns of these workers in the development of this legislation. From our perspective, House Bill 574 represents a much better and well thought out method for privatizing the state's retail liquor system than any previously-considered legislation.

Having said that, I would now like to address the reasons why we remain opposed to this privatization.

(1) Although HB 574 would secure the right of first refusal for current employees to purchase the state stores; provides a bonus for those employees who continue working until each store is privatized; and establishes a limitation on competition for a grace period of time, not all employees will be in a position to take advantage of these provisions. There will be employees who will lose their jobs, suffer possible loss of retirement and suffer economic dislocation as a result of privatization. Whenever that happens, collateral impacts can include family breakups, increased health problems and greater reliance on public assistance.

(2) Privatization of the state's retail liquor stores, we believe, will not result in any increased revenue to the state. In fact, we believe it may well result in reduced revenue as these newly-created private ventures will likely form a potentially powerful special interest group, engaging in political and legislative activities in order to enhance their profit margins at the expense of state revenues. The current structure inhibits the creation of such a special interest group.

(3) HB 574 limits and caps the percentage of profits which may be made by the newly-privatized stores, as well as current agency stores. This restriction, combined with the state's setting of liquor pricing and monopoly ownership of the liquor warehouse really means that this so-called privatization is not really transferring ownership to actual "private sector" businesses. Consider the dilemma that it puts these new "private sector" owners in. In order to enhance their profits, they must do one of two things. They must (1) increase the volume of their liquor sales or, said another way, increase the amount of liquor that is

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consumed in Montana; or, (2) make these stores more than liquor stores by selling, or leasing, everything but restaurant food.

We believe that both options could result in circumstances which are detrimental to one of the most important aspects of having a state monopoly in the first place: to regulate the consumption and distribution of alcohol in Montana. The attached "comparison of selected alcohol-related data of control states and open states" points to the resulting negative impacts of increased alcohol consumption.

(4) On the opposite side of the spectrum is the potential for reducing the variety and availability of exotic spirits to the consuming public. Currently, the state maintains a fairly large variety of alcoholic beverages in its inventory in order to satisfy the desires of its customers. With HB 574, this variety and availability will "necessarily" be limited. In order to make the "sale" of the inventory to the new owners affordable and to enhance the possibility of these stores "making it", HB 574 provides for a reduction in current store inventories. This reduction is reflected in both volume and variety. For the discriminating customer, this may well mean that their favorite beverage will no longer be readily available.

Mr. Chairman, members of the committee, there are other reasons why we believe that privatization of the state' retail liquor store system is not a good idea, but I'll try to sum up our opposition with just a few additional comments.

House Bill 574, for all the hard work of its sponsor and those individuals participating in its development, does not represent true privatization of the system. It is, rather, simply a shifting of the cost of purchasing the ongoing inventory from the state to a rigidly controlled licensee structure. Price fixing, store location, parameters on inventory selection and profit levels will still be regulated or established by the state.

Privatization will not result in enhancing profits or taxes accruing to the state and may, in fact, result in the creation of a powerful, special interest lobby which could eventually cost the state money, raise the prices for the consumer and create greater impetus for more consumption in Montana.

The pressure by large retail grocery outlets to expand the licensees and allow grocery stores to sell liquor will grow and, like other "privatized" states, liquor will eventually become more accessible and less controllable in such circumstances.

Many employees, although granted better rights and protections in HB 574 than any other previously considered privatization bill, would still suffer.

We believe that the quest for privatization is driven by public sentiment which, in turn, was influenced by incomplete and inaccurate data. Before proceeding, we would encourage you to ask simple questions, not often mentioned by privatization advocates. Would this proposal result in true, full privatization of the state's liquor system? Will the state actually acquire $5 million in one time revenue, if not, how much? Is there a compelling control issue, or financial reason to privatize the state liquor system? Do you expect that, once partially privatized, special interest pressure will mount for more full privatization and freedom to set prices, influence tax rates and adjust inventories? Will this proposal result in better consumer services or enhance product selection? Does this proposal result in an elimination of the case lot discount for individual citizens, and subsequently, higher prices for such purchases?

Mr. Chairman, members of the committee, we encourage you to ask these and other questions. For the reasons stated above we would encourage you to reject HB 574. Thank you.

EXHIBIT 4
DATE 3-2-95
HB 574

COMPARISON OF SELECTED ALCOHOL-RELATED DATA OF CONTROL STATES AND OPEN STATES

	CONTROL STATES (Average)	OPEN STATES (Average)	OPEN STATES HIGHER BY
Motor vehicle fatalities, 1992 (Open states have 32.98% MORE motor vehicle fatalities than control states.)	634.00	843.12	33%
Violent crime rate per 100,000 population, 1992 (Open states have 85.75% MORE violent crimes than control states.)	390.30	724.97	86%
Alcohol-related motor vehicle fatalities, 1992 (Open states have 48.91% MORE alcohol-related motor vehicle fatalities than control states.)	263.61	392.55	49%
Alcohol-related mortality per 100,000 population, 1986-1990 (Open states have 4.57% MORE alcohol-related mortalities than control states.)	42.93	44.89	5%
Alcohol-related mortality due to cirrhosis per 100,000 population,1991 (Open states have 13.45% MORE alcohol-related cirrhosis mortalities than control states.)	9.09	10.31	13%
Homicide per 100,000 population,1992 (Open states have 74.96% MORE homicides than control states.)	5.63	9.85	75%

Sources:

Total Auto Deaths	U.S. Dept of Transportation Traffic Safety Facts 1992, pp 154-155
Violent Crime	U. S. Federal Bureau of Investigation, Crime in the United States, annual
Alocohol-Related Auto Deaths	U.S. Dept of Transportation Traffic Safety Facts 1992, pp 154-155
Alcohol-related Mortalities	U. S. Dept of Health and Human Services U.S. Alcohol Epidemiologic Data Manual, 4th ed. Vol 3, Tale 1, pp332
Alcohol-related Cirrhosis deaths	Statistical Abstract of the United States 114th Ed, 1994, Table 129
Homicide	U. S. Federal Bureau of Investigation, Crime in the United States, annual

DATE 3-2-95
HB 574

NAME Marc Asbury

ADDRESS Rte 62 Box 3238A, Livingston MT

HOME PHONE 222-6098 WORK PHONE 222-0202

REPRESENTING EMA Corp. Agency #117

APPEARING ON WHICH PROPOSAL? 574

DO YOU: SUPPORT _____ OPPOSE X AMEND 8

COMMENTS:

Support the proposal but would amend to increase the commision + the length of time to buy out the initial inventory. The State is saving money by this bill. None of the savings are being passed on to the retail outlets to promote growth, cover the cost of money, provide any return on investment, or make an agency a desirable business to operate. Increase the commissions to 18%, eliminate case discounts to the agency. Increase buyout of inventory to 3 yrs. with full bonding for this period. This is not privitazation, this is mere a shifting of the inventory liability.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

WITNESS.F11

DATE 2-9-91
HB 574

Shelby Liquor Store #29

Testimony

House Bill No. 574

Section 16-2-101 (4) (a)

The 10% commission is not sufficient to operate an Agency store, being required to own the inventory and additional expenses associated with inventory ownership.

Added expenditures:

1. Additional inventory insurance
   a) quoted at $25.00 per thousand would amount to an added expense of approx. $1,000 per year on a $40,000 inventory
   b) breakage & leakage would become the agent's responsibility

I feel in order to own the inventory, the % of commission would need to be set at 15% (See Shelby Liquor Store #29 Projected Sales and Projected Cost of Liquor Summary)

Section 23 16-2-106

The delivery of liquor from Agency Stores needs to be struck from this bill, and agencies need to continue to operate as present. If it is to remain in the bill the % of commission needs to be adjusted to cover additional costs of delivery.

If deliveries are allowed, the possibility exists for truck deliveries all across the state. Consequently, delivery areas need to be well defined to not exceed the boundaries of the service area designated for each Agency Store.

Section 26 16-2-201

I strongly feel licensees are in need of additional discount for quantity purchases but it must be set up so that the savings passed on to the licensees is not at the Agent's expense. As written, an Agent could end up selling a large amount of his inventory at 2% commission.

A method of paying the Agents must be adjusted to cover additional sales anticipated by this further reduction in price. (See Shelby Liquor Store #29 Documentation of Actual Sales and Projected Sales)

Other Significant Issues/Concerns to be Redefined/Clarified in HB574:

(1) Moratorium only until July 1, 1999 and no moratorium in communities with no liquor store more than 35 miles away from a community with an agency store

(2) Repacks: More repacks (mixed case shipments) must be available to small and mid-size stores to assure availability of slow moving items

(3) Bad check from licensees: The State licenses the licensees and presently absorbs all insufficient funds checks received from licensees. This has the potential of being an on-going problem with the high turnover of Liquor Licenses

(4) Declining consumption of liquor: Liquor consumption is steadily declining and revenues are historically shrinking every year, while operational expenses are increasing. Consequently, margins of profit will significantly continue to diminish when the price of the product is controlled and the agents are locked into a restrictive profit margin based on a fixed percentage

EXHIBIT 6
DATE 3-2-95
HB 574

Shelby Liquor Store #29

Projected Revenues and Projected Cost of Liquor (Including Initial Inventory Payment) 07/01/95 thru 12/31/96

Initial Inventory at $40,000 x 90% to allow for 10% Commission

Projected Sales		Projected Payments $36,000/$2250 per payment x 16 payments	
July '95	$ 30,000		-0-
Aug '95	20,000		-0-
Sept '95	22,000	Shipm't for July '95	$ 33,750
Oct '95	21,000	Aug '95	26,650
Nov '95	24,000	Sept '95	21,150
Dec '95	38,000	Oct '95	29,250
Jan '96	18,000	Nov '95	21,150
Feb '96	18,000	Dec '95	29,250
Mar '96	21,000	Jan '96	21,150
Apr '96	20,000	Feb '96	15,750
May '96	22,000	Mar '96	19,350
June '96	21,000	Apr '96	26,550
July '96	30,000	May '96	16,650
Aug '96	20,000	June '96	31,950
Sept '96	22,000	July '96	33,750
Oct '96	21,000	Aug '96	26,650
Nov '96	24,000	Sept '96	21,150
Dec '96	38,000	Oct '96	29,250
	$431,000		$403,400
(Projected Sales over 18 month period)		(Payments thru Dec. '96)	

$27,600 gross to pay for operational costs ÷ 18 months = $1533.33

[2 months shipments still outstanding: (Nov. & Dec.) $45,900]

Shelby Liquor Store #29

Documentation of Actual Case Lot Sales

January thru December 1994

January	35
February	43
March	48
April	39
May	45
June	37
July	61
August	42
September	46
October	35
November	63
December	68
TOTAL (1994)	562 Cases

562 cases represents approximately 20% of the total bottle sales in the Shelby Liquor Store, for an average case lot sale of 5620 bottles. If the demand increases by 10% from 20% to 30% case lot orders, 8430 bottles would be sold at an 8% discount July 1995 thru June 1996. This would result in a loss of $2248 in case lot sales revenues to the store during the first year of operation.

EXHIBIT 7
DATE 3-2-95
HB 574

TESTIMONY
FOR
HOUSE BILL 574

LIQUOR PRIVATIZATION

Mr. Chairman, members of the committee, for the record my name is George Hagerman, Executive Director of Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO.

AFSCME does not represent any of the workers who will be affected by this privatization bill, however, we did once represent liquor warehouse workers.

Mr. Chairman, AFSCME is against the kind of wholesale privatization of public jobs that this bill represents. We do not believe that such legislation promotes or protects the public interest, saves the public any money or in any way benefits the public we're supposed to be serving.

It has been stated time and time again -- and it is a fact -- that liquor division employees have made money for the state, both in the liquor stores and the liquor warehouse. Despite this fact, jobs will be privatized by this bill under the guise of saving the public money and improving services to the public.

Both those arguments do not hold up, just as they generally are when offered in other privatization discussions.

Public employees provide good services at reasonable cost with strong dedication and commitment to the public. Wholesale privatization of their jobs under the guise of savings is what that we objected to and will continue to object to in future, regardless of whether it directly affects our members.

Thank you. We respectfully request that you vote no on House Bill 574.

COURTESY OF THE
STATE LAW LIBRARY
OF MONTANA

DATE 5-2-95
HB 574

To Whom it may concern:
My name is Joe Gough. I have worked at Missoula State Liquor Store 171 for 16 years. Once again I find myself in fear of losing my job. House bill 574. I am told that this bill is going through and there is nothing anyone can do about it.

My severance pay which used to be one week pay for every year worked, is now limited to two weeks max. 2 weeks pay for 16 years service. Next, the bonus if you stay on until the store sells. Nice bonus it almost makes up for the severance pay, except you only get it if nobody takes over your store by July 1st. So you can't count on that money to pay bills & live on. And now, take over my store? Not at 5.76 % commission rate. Buy a 400.000 inventory not when you can put money in the bank and get 8 % and not have to work. The public will lose 1/2 selection. there is no way anyone could carry the selection we do. Liquor sales will drop, people will buy out of state since there will be no discount for case sales for the general public which we sell alot of case lots to the public

Thankyou for reading this

Joseph Gough

EXHIBIT 4
DATE 3-2-95
HB 574

Dear Sirs,

My name is Sandra Lee and I manage Liquor Store #171 in Missoula. I'm writing concrening the Privatization Bill. I have a few concerns.

First, the Section that states that any store manager that takes over will be responsible for any shortages. Most retail businesses plan for a shortage from2% to 5% depending on the size and products. The State is running these stores up unt until the time they sell them,taking all the profits and should absorb the shortages too, just as we will be responsible from the time we take over. As this does not appl apply to any clerk or private person taking over, it seemsto discriminate and discou courage managers from doing so.

Second, the section that states that the State shall have the right to decide if a store will carry a product, taken complaint by complaint. The State controls the wholesale price, the retail price, and the agents profit. That leaves little for th- the agent to doin order to run a profitable store other thaninventory ~~contri~~ control and overhead. If the payment turn around is 60 days, the agent should be able to not carry any item that doesn't sell in 2 months.

Third, the section that states that agents will be able to buy product at sale price and gain a profit from that which doesn't sell that month. The way it reads you will get the product for the sale price the ~~mo~~ month it is on sale. With getting shipment only every two weeks, a store might not get a shipment until 13 days into the sa- sale. Thus having to sell at a sale price product bought a regular price. There w would be three solutions to this. One, have deliveries every week. Two, have a window of six weeks, two weeks before the sale and the month during, in which the agent could buy product at sale price. Or three, have the agent buy the sale product

the month before it goes on sale. I prefer the last.

Fourth, the section that states that the State shall have the authority over the size and location of the store. I realize the state is still bound by current contracts, but when those contrcts are up it should be up to the agent. He has first hand knowledge of his business and is not going to move to a location that is detrimental to it. He can't do worse than a few of the locations picked in Great Falls , Billings, and Missoula.

Thank you for reading this and I hope these things will be addressed in this legislation.

Sincerely,

Hang Crone Store #170 Sandra Lee Mgr #17,

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1-B
DATE 3-21-95
BILL NO. HB 574

1994-1993 ANNUAL FINANCIAL REPORT of the Liquor Enterprise Fund

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

MONTANA DEPARTMENT OF REVENUE

Sam W. Mitchell Bldg.
Helena, Montana

EXHIBIT NO. 2
DATE 3-21-95
BILL NO. HB 574

Montana State AFL-CIO
Donald R. Judge
Executive Secretary
110 West 13th Street, P.O. Box 1176, Helena, Montana 59624
406-442-1708

TESTIMONY OF DON JUDGE IN OPPOSITION TO HOUSE BILL 574 BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE MARCH 21, 1995.

Mr. Chairman, members of the committee, for the record my name is Don Judge and I'm appearing here today in behalf of the Montana State AFL-CIO to testify on House Bill 574, the "privatization of state liquor stores" bill.

Although organized labor remains opposed to privatization of the state's liquor store system, we will admit that our organization, and the unions which represent the state's liquor store employees, were involved in the development of HB 574. In fact, I'd like to express our appreciation to the bill's sponsor, Rep. Rehbein, and the representatives of the Department of Revenue for their willingness to encourage the involvement and incorporate some of the concerns of these workers in the development of this legislation.

As originally introduced, House Bill 574 represented a much better and well thought out method for partially privatizing the state's retail liquor system than any previously-considered legislation. Unfortunately, amendments to the bill on the House floor during debate have rendered HB 574 much less favorable to the state's loyal workers who have operated these stores, some for as many as 20 years or more.

As introduced, HB 574 would have granted the current state liquor store employees a "first right of refusal" to purchase the agencies where they work, as privatization occurs. That right was amended out in the House, apparently in retaliation for the union's refusal to support the bill, after participating in its drafting.

For the record, let me assure you that from the beginning labor had made its opposition to privatization of our state's liquor system clear. Our participation in the drafting of HB 574 was predicated on the understanding that "we could either participate in designing the train (bill) or getting run over by it." Given that "choice", labor determined that we should do our best to make the bill as palatable as possible for the employees affected in the event that it should pass.

You should also understand that the employees impacted by the amendment will, in all probability, no longer be members of the unions which currently represent them if privatization occurs. So the amendment, aimed at the unions, is in reality a shot at the workers who have made the system work, for Montana citizens and in generating revenue for the state for many, many years.

Adding to the complexity of the union's position is the fact that the workers, themselves, are divided over this bill. We will concede that there are some who would like to give privatization a shot. They would like to buy and operate the stores in which they now work. There are others who oppose privatization, but if its going to happen, would like the first right of refusal option. Then there are those who are flatly opposed to privatization and are afraid for their futures. Some of these are closer to retiring than they are to starting over, but not close enough to retirement to feel good about losing their jobs.

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In any event, Mr. Chairman and members of the committee, we would encourage you to reinsert the employees first right of refusal and give those employees who believe that they can make it a chance to do so. Without this provision, it is clear that individuals with money, without any history of operating liquor stores, will have the advantage on such ownership.

Having said that, I would repeat that organized labor remains opposed to privatization and thereby opposed to HB 574.

In the interest of time I will submit our objections to privatization for the record.

(1) Not all employees will be in a position to take advantage of purchasing the current state liquor stores. There will be employees who will lose their jobs, suffer possible loss of retirement and suffer economic dislocation as a result of privatization. Whenever that happens, collateral impacts can include family breakups, increased health problems and greater reliance on public assistance.

(2) Privatization of the state's retail liquor stores, we believe, will not result in any increased revenue to the state. In fact, we believe it may well result in reduced revenue as these newly-created private ventures will likely form a potentially powerful special interest group, engaging in political and legislative activities in order to enhance their profit margins at the expense of state revenues. The current structure inhibits the creation of such a special interest group.

(3) HB 574 limits and caps the percentage of profits which may be made by the newly-privatized stores, as well as current agency stores. This restriction, combined with the state's setting of liquor pricing and monopoly ownership of the liquor warehouse really means that this so-called privatization is not really transferring ownership to actual "private sector" businesses. Consider the dilemma that it puts these new "private sector" owners in. In order to enhance their profits, they must do one of two things. They must (1) increase the volume of their liquor sales or, said another way, increase the amount of liquor that is consumed in Montana; or, (2) make these stores more than liquor stores by selling, or leasing, everything but restaurant food.

We believe that both options could result in circumstances which are detrimental to one of the most important aspects of having a state monopoly in the first place: to regulate the consumption and distribution of alcohol in Montana. The attached "comparison of selected alcohol-related data of control states and open states" points to the resulting negative impacts of increased alcohol consumption.

(4) On the opposite side of the spectrum is the potential for reducing the variety and availability of exotic spirits to the consuming public. Currently, the state maintains a fairly large variety of alcoholic beverages in its inventory in order to satisfy the desires of its customers. With HB 574, this variety and availability will "necessarily" be limited. In order to make the "sale" of the inventory to the new owners affordable and to enhance the possibility of these stores "making it", HB 574 provides for a reduction in current store inventories. This reduction is reflected in both volume and variety. For the discriminating customer, this may well mean that their favorite beverage will no longer be readily available.

Mr. Chairman, members of the committee, there are other reasons why we believe that privatization of the state' retail liquor store system is not a good idea, but I'll try to sum up our opposition with just a few additional comments.

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL Rm. 405 DATE March 21, 1995

NAME	PRESENT	ABSENT	EXCUSED
STEVE BENEDICT, VICE CHAIRMAN	✓		
WILLIAM CRISMORE	✓		
CASEY EMERSON	✓		
GARY FORRESTER	✓		
TERRY KLAMPE	✓		
KEN MILLER	✓		
MIKE SPRAGUE	✓		
BILL WILSON	✓		
JOHN HERTEL, CHAIRMAN	✓		

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MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 21, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 574, SJR 19
Executive Action: SJR DO PASS

HEARING ON HB 574

Opening Statement by Sponsor:

REP. WILLIAM REHBEIN, HD 100, Lambert, presented **HB 574.** This was a liquor privatization bill with a difference. The difference was that this bill was brought about by the major groups who would be affected by this process. He had worked with employees, agents, liquor licensees, liquor suppliers, and the Department of Revenue. He maintained there had been compromise involved which had produced an effective solution to balancing the many points of view. He explained the House amendments had further improved the bill, and this was especially true in the establishment of a wholesale and retail price arrangement which

maintained a statewide, uniform wholesale price to liquor licensees but allowed agents to establish their own retail price. **REP. REHBEIN** stated while competition would hold excessive retail prices in check, the flexibility to set retail prices gave the agents the opportunity to earn profit in addition to the established commission rate.

REP. REHBEIN said another amendment brought the Department back to a 30 day payment requirement for liquor it purchased from distillers. He stated the Department needed the 60 day payment period during the biennium to maintain adequate cash flow during the conversion process. He related after that the new system would be sufficiently stabilized to bring payments to distillers back to the 30 day pay period. He reported this amendment did not affect the 60 day payment period agencies had to pay for products they purchased from the state warehouse. He said the bill converted 26 stores currently operated by state employees to agency franchise and required all agencies, including the existing 82 stores, to own the inventory they sold. They purchased the liquor from the state warehouse at a reduced price to compensate for their commission rate and discount sales to liquor licensees.

REP. REHBEIN related House amendments removed preference to store employees to become the new agents but still provided them a bonus if they stayed with their job until the transition was completed. He said it allowed for delays in paying for inventory that made borrowing money and paying interest unnecessary. He stated **HB 574** reduced state government by 76.5 FTE's, transferred $4 million one-time money to the General Fund, eliminated state ownership of inventory in stores, and eliminated the need for the state to be involved in the day to day management of stores.

<u>Proponents' Testimony</u>:

Mick Robinson, Department of Revenue, presented a narrative on **HB 574, EXHIBIT #1.** He related the state had 108 liquor stores. Twenty six of the stores were operated by state employees while the rest of the stores were operated by agents. They had a ten year franchise agreement with each agent in terms of the operation of those stores. They were presently paid a commission on the sale of the products and the state presently owned the inventory which was located in all of the retail stores. He said the two main proponents of this privatization proposal would be to move the present 26 state operated stores to an agency mechanism and to transfer the ownership of the inventory for all of the stores.

Mr. Robinson explained the present and the future systems required that private retailers and taverns, must purchase their supplies from the state liquor stores. He stated that presently accounted for approximately 55% of all sales of alcohol statewide. He maintained in the mechanism they had some adjustments in terms of wholesale discounts which would be

allowed to the private retailers which recognized that volume relationship. He asked what was proposed and how would retail privatization be accomplished? The 26 state operated stores would be transferred to an agency basis identical to the present 82 agency stores. **Mr. Robinson** said the inventory would be sold to the agency stores. He asserted for the present 82 stores the transfer would take place on July 1, 1995. He claimed for the 26 state operated stores there would be a transitional period from July 1, 1995 until December 31, 1995, when that transfer would take place.

Mr. Robinson remarked the present bill required there be a bid process for the 26 stores. He maintained that was one of the amendments made by the House. He said the amendment removed the right of first refusal for the present employees within the 26 state stores. He urged the committee to remove that House amendment. Why privatize the state retail liquor stores? He said there were 76.5 FTE's connected with the 26 state stores. He related, in addition, the Helena office spent a lot of time monitoring the stores because the inventory was owned by the state. He reported the agents deposited their sales into a state bank account, and then they were paid a commission.

Mr. Robinson contended the transfer of the inventory would allow the agent to deposit the sale directly into his bank account and then he paid the state for the purchase of the inventory. He said the Helena office would still handle the licensing function and the central warehouse facility. Would the price of liquor change? **Mr. Robinson** expressed for the retailers, it would not; however, their full case discount would move from 5% to 8%. He said for the walk in customers, a House amendment would allow the agency store to set the price a little higher if they so chose.

Mr. Robinson said the transportation cost in delivering the product statewide was averaged among all of the deliveries. He maintained the rural areas paid no penalty for delivery. Would the variety of liquor products be changed and he stated probably not, although the inventory was transferred to the ownership of the agent. He explained most of the inventory turned over in 30 to 45 days, thus the 60-day interest free payment schedule allowed for a constant revolving line of credit which required no actual cash investment on the part of the stores.

Mr. Robinson declared there was a two week delivery cycle. They had the ability of mixed case deliveries as well as special orders. Would the number of agency liquor stores be changed and he stated **HB 574** had a moratorium on the number of liquor stores which would be in place until July 1, 1999. He expressed there would not be an increase in the number of stores during the moratorium period. If a community did not have a liquor store and was more than 35 miles away from a community with an agency store, **Mr. Robinson** said there was the possibility of additional liquor stores.

Mr. Robinson related how agents were paid their commission. He stated the agencies were paid the difference between the selling and purchase price. He contended the purchase price as it came from the warehouse would be the difference between the warehouse price and the commission and discount to the tavern owners. He related the purchase of the inventory would be extended over an 18 month period; for the 82 agency stores it would be July 1. They had 18 months in which to pay for that inventory. He said the first payment would not be required until 60 days after that transfer date. **Mr. Robinson** stated in order to protect the state's investment in inventory, there would be a bond required to be maintained by the agent until the liquor had been paid for.

Mr. Robinson conveyed **HB 490** extended preferences to state employees who would be riffed. He said it provided for training, relocation, preference for other state positions, six months of paid health insurance, and up to three years of PERS retirement. He said there was a bonus situation connected with the state stores which paid the employees a bonus of 26.8% of their salary if they continued with the store through the transition period. He maintained this was very important for an orderly transition.

Bob Gilbert, Montana Agency Liquor Stores Association (MALSA), stated they had been involved in this process from the start. He said the first change was the Franchise Act of 1993, which set up a ten year franchise. He said this was not pure privatization and was never intended to be. MALSA supported the concept of this bill. He said currently, agents were clerks for the State of Montana which was not a desirable way to do business. He said the commission was 10% and that could be negotiated in three years based on need.

Mr. Gilbert explained the House amendment allowed the agents to go above the cap price for walk-in trade was a positive move which allowed them to be more profitable in their businesses. Competition and good management would keep them from abuse. He said variety would not be restricted mainly due to the 60 day payment process. He maintained eighty to ninety percent of the product moved in 30 days. **Mr. Gilbert** also said some of the members did not support this bill. He said if there was total privatization, liquor would end up being sold in grocery stores, etc.

Mark Staples, Montana Tavern Association (MTA), stated they were the ultimate retailer of liquor products in the State of Montana and they were also the ultimate purchaser of liquor products in the state. They had an obvious interest in predictable products, supply and variety, stable product price and fluid product distribution. He maintained there was a drive to privatize which needed to be recognized. He conveyed there were strong reasons why the state should stay in the wholesale business, the least of which was control. **Mr. Staples** said the considerations must be supply, stability, and fairness toward employees. He professed this legislation was a significant step which should be given a

chance to work. **Mr. Staples** told the committee the MTA supported the amendment which gave the employees the first right of refusal.

Mike Bruno stated it was very important for the committee to sort out the information from the misinformation. He remarked this legislation should benefit everyone in the system.

Pamela Miller, United Food and Commercial Workers Union, stated they were the union which represented the employees in liquor stores. They had members in favor of the bill as well as members who opposed the bill because they would lose their jobs. They participated in the drafting of this legislation. They asked the amendment be adopted which gave the employees first right of refusal. She said they didn't like the idea of privatization, but since it was a given, they participated in the drafting of this legislation.

REP. LARRY GRINDE, HD 94, Lewistown, stated he had been involved with this issue for five terms. He believed this was good legislation which would work for everyone concerned.

Opponents' Testimony:

Don Judge, Montana State AFL-CIO, clarified the position of his organization. Although organized labor remained opposed to privatization of the state liquor store system, they admitted they were involved in the development of this bill. He expressed appreciation to the sponsor and others who incorporated some of the concerns of the workers involved in the development of this legislation.

Mr. Judge said originally, **HB 574** represented a well thought out method for partially privatizing the state's retail liquor system. He maintained, unfortunately, House amendments had rendered **HB 574** much less favorable to the state's workers. He contended **HB 574** would have granted the state's liquor store employees a first right of refusal to purchase the agencies where they were employed as privatization occurred. **Mr. Judge** said that was amended out in the House. He declared from the beginning, labor had made their opposition clear to privatization of liquor stores system. They participated in the drafting of **HB 574** because their choice was to participate in designing the train or get run over by it. He maintained there was nothing wrong with the current system; the workers had done a good job for the state. He presented his written testimony, **EXHIBIT #2.**

Bea Lunda, co-agent of Shelby Liquor Store, presented a letter from her accountant, **EXHIBIT #3-A;** a letter from her banker, **EXHIBIT #3-B;** a monthly store sales & inventory, **EXHIBIT #3-C;** and 7 different location Purchase Models, **EXHIBIT #3-D.** She said she had amendments which would be introduced on the Senate floor. She stated her accountant advised her not to get involved with the purchase of initial inventory or enter into any contract

under the proposed legislation (**EXHIBIT #3-A**). Her banker advised her to do the same (**EXHIBIT #3-B**). She referred to the monthly store sales and inventory for the month ending January, 1995 (**EXHIBIT #3-C**). The value of their inventory at cost was $50,000. She said the value of the inventory at retail was almost $90,000. She told the committee with the markup between the purchase price and the price of sale, agency stores should get a better part of the markup. **Ms. Lunda** announced twenty percent was sufficient to buy the inventory and pay it off in 18 months and anything short of that was not sufficient.

Ms. Lunda said the first year the accumulative fund balance was adequate to justify the cost of operations, some profit, payment on initial inventory and shipments. There were always four shipments which hadn't been paid for in any given time. She said in the following year the accumulative net balance was less than the payments on the inventory purchased 60 days before. She stated there would not be enough cash to keep operating. This would then turn around and there would be a recovery, but, she had to stay in her liquor store for 24 to 30 months without taking a dime out of it. Her amendment, which **SEN. GAGE** would carry, was to increase the commission to 20%.

Jill Mogan, liquor store employee in Billings, stated her opposition to the bill. She was considering becoming an agent. She asked the committee to reinstate the employee's right of first refusal.

Witness Statements were presented to the committee from three individuals. **Shane Farnsworth** recommended the bill be amended, **EXHIBIT #4**. **Ms. Mogan** opposed the bill, but also recommended it be amended, **EXHIBIT #5**. **Doug Kirby** recommended **HB 574** be amended, **EXHIBIT #6**.

{Tape: 1; Side: B}

Informational Testimony: None

Questions From Committee Members and Responses:

SEN. KEN MILLER asked **Mr. Robinson** to explain the open bid process. **Mr. Robinson** stated the bid process which they envisioned in the original draft of the bill was an open bid process which allowed the employees of a particular store the right of first refusal. They would bid on a commission rate. The maximum commission rate allowed was shown in **EXHIBIT #1.** He stated if there was not an employee within the store who wanted to bid on the store, the bid would be opened up to other employees in that city. He explained if there were not additional employees within the city who were interested in bidding, the bidding would then be opened to the general public. He related the House amendment would take away the right of first refusal. He maintained the way the bill was presently drafted would open it up to the general public as well as the employees.

He reported the low bid would be successful. **Mr. Robinson** expressed there was no matching of the low bid by state employees.

SEN. MILLER commented that originally there was a first right of refusal for employees in the store.

SEN. MIKE SPRAGUE asked **Mr. Robinson** to further explain the first right of refusal. His interpretation of this would be when a price or a commission rate had been established, the state employee could then meet or beat the offer and thereby had the first right of refusal. **Mr. Robinson** stated that was not what they had intended. He said The term first right of refusal to them was having different layers in terms of the bid process. He asserted the first layer would be that only the state employee would be allowed to bid. He declared the general public would not be allowed to bid unless employees were not willing to bid on that particular store. He said the first restriction would be the employees in the store; if they were not interested, the bid would be opened up to other employees within the community.

SEN. SPRAGUE asked how there could be a guarantee of fair market value without a bidding process and when would the domino effect of state employees end. **Mr. Robinson** stated the original bill only addressed the employees in a particular store. If the employees of that store did not want to bid, it would then be opened up to another store in that community. He said Billings had three stores. He stated it would not be opened up to other state employees. He announced it would be opened up to the general public. They set a maximum for a commission in interests of fair market value. The State of Montana would receive at least as much revenue in the future as they had in the past. He declared the bill included half time employees.

Mr. Blewett clarified the original bill included employees who were employed from July 1, 1994 through January 6, 1995. He stated the employee needed 544 hours of employment or more to be eligible to receive preference.

SEN. TERRY KLAMPE asked **Mr. Bruno** how he felt about the earlier testimony which needed a larger commission to make this work and **Mr. Bruno** commented this commission would work for the agents. He stated he would spend some time with the witness who testified and explain the line items which they were addressing in the memo which she handed out. **Mr. Bruno** maintained there were several mechanisms built into this legislation which encouraged and enabled the agents to get more than 10% commission. They had the opportunity to buy into sale items in the future which increased gross profit. They would be able to increase the sale prices on items. They had a fairly large cash balance which accumulated on a monthly basis. They could carry that in an interest bearing account which generated three to five percent on a monthly basis. He explained that money would be applied to the bottom line.

SEN. CASEY EMERSON asked **Mr. Robinson** if the employees would receive wages as well as a bonus during the transition and **Mr. Robinson** stated they would be paid their wages through the transition. He stated further if they stayed through the entire transition period, they then received a bonus which would be a percentage of their salary.

SEN. EMERSON asked why they wanted to control the days and hours they would be open for business. **Mr. Robinson** stated this applied to any tavern in terms of the sale of alcohol. He said the statute in terms of the sale of alcohol set the hours of 8:00 a.m. to 2:00 a.m. He reported the days of operation involved a compromise when drafting this legislation. He said the day which was in contention was Monday. He declared the liquor store owners were allowed to survey the tavern owners within their particular area of service and if 51% of those agreed in terms of a Monday opening then that liquor store could be opened on that particular day. He contended the agents had preferred the Monday openings. He maintained the tavern owners who had packaged liquor sales saw that as an infringement on their activity. The bottle sales which were made by the retailer on Monday had to be purchased from the agency store anyway so they would get the sale one way or the other.

SEN. EMERSON asked how resale of the store would take place. **Mr. Robinson** stated they now had a ten year franchise agreement with the agency stores in the interest of long term stability for those particular agents. He related that was a transferable agreement. He said the state would continue with the new agent. He reported the inventory owned at the time could be transferred in terms of negotiated sales price.

SEN. SPRAGUE stated this could be a big opportunity as well as a big responsibility. He said the state was really doing these people a favor by setting them up in business and giving them 18 months to pay for preexisting cash flow in an established market. He asked if they would be giving any instructions as to what the cause and effect of the law of supply and demand, etc., would mean to them? **Mr. Robinson** stated one of his concerns was the responsibility for running those agency stores had been on the state. He said the inventory they had in the retail stores was accepted in terms of what would be necessary to cover the normal turnover of the product. He thought there needed to be some education for the agents in terms of the operation of the store. They had more responsibility as well as more authority. One of his concerns was that payment for the inventory did not need to be made until the end of the 18 month period. He expressed there would; however, be a significant positive cash flow. They needed to make sure the agent understood that even though they had a large cash balance, they also had an accounts payable.

SEN. SPRAGUE asked if supplying 18 months of inventory interest free was part of the compromise and **Mr. Robinson** stated it was. He stated the concern was that banks would not loan 100% of the

inventory and how would the individual who operated the store or the employee working there be able to come up with the necessary funds to operate the store?

SEN. STEVE BENEDICT stated the public perception would be the liquor business in Montana should operate on a more competitive basis. He maintained people who lived in Arizona during the winter and then returned to Montana had told him they paid approximately 30% less for liquor down there. They were wondering if the price for liquor in Montana would come down due to privatization. **Mr. Robinson** stated this legislation would not reduce the price of alcohol in Montana. He stated when comparing prices from other states, a person needed to look at what was encompassed in that price. The State of Montana had heavy taxes levied on the sale of alcohol. He maintained that was a large component of the price. He related to be price competitive with other states, they needed to address the tax component. He alleged the tax component brought in $1 million a year on liquor sales. He reported the profit from the retail operation in 1994 brought in about $3.4 million. He declared Montana was very competitive with Washington, Idaho, Wyoming, etc. He said Nevada was not dependent on alcohol taxes for operation of state services because they had a significant gambling revenue.

SEN. BILL WILSON asked about **HB 490**, which included employee severance protective benefits and **Mr. Blewett** stated the bill had a do pass from the originating committee. He related **HB 490** was then transferred to the Finance Committee.

SEN. WILSON asked if the Department of Revenue supported the aspect of **HB 490** and **Mr. Blewett** stated the Governor's Office testified in support of **HB 490** in the committees. He said it was a bill which covered riffed employees terms of downsizing. He said there should be no problem getting the bill to pass. He maintained in addition, the liquor store employees had the bonus component which was included in this bill.

SEN. KLAMPE asked how this legislation could be distinguished from the other legislation which had been presented during the last five years? **Mr. Robinson** stated this particular legislation was hammered out with most of the constituency groups affected by it. They were able to talk about the structure needed to go forward with this legislation. **Mr. Robinson** said there was a tremendous amount of compromise which went into it before the drafting took place.

SEN. MILLER asked **Mr. Judge** what items he would like addressed which were not handled during the negotiations and **Mr. Judge** stated they would like to address early retirement buy out. They had employees with 23 years of service. **HB 490** would allow them to purchase one year for every five years worth of time in the system and provided that the state purchased up to three of those first three years. He said the people with 23 years may not have the number of years which would allow them to be early retirees

and yet they were too old to buy the store. He said that was not addressed in **HB 490**. He related **HB 490** was different from the bill in the last session. He announced that bill was funded by a general fund appropriation of the legislature with provisions for employee's retraining benefits, relocation, etc. He conveyed this bill was not funded and stated the agencies should use unexpended revenues to assist those employees. He asserted they participated in the drafting of this bill; however, they still had members who were opposed to privatization and didn't feel it would accomplish what the state thought it would accomplish.

SEN. GARY FORRESTER commented that in Billings, where there were three stores, one store had most of the inventory. He related most of the bar owners purchased their products from that one store. He said when one store was allowed to have this large an inventory, what would be the incentive for the employees at the other stores to buy the inventory? How would they ever be able to get some of the bar business? **Mr. Robinson** stated there was flexibility for particular stores. He declared there would be the allowability of delivery. He said the location of the smaller stores may be better for walk-in trade. The tavern activity was 55% of the activity. This left 45% as the walk-in trade. He said service would be the differentiating factor.

SEN. KLAMPE asked **Mr. Staples** if he had looked into the practices of other states involving privatization. **Mr. Staples** declared that there were as many varieties of distribution as there were states. He knew of no two which were exactly the same. He maintained liquor had to do with culture norms, religious norms, distribution patterns, etc.

Closing by Sponsor:

REP. REHBEIN stated he would resist retaining the amendment which was added on the House floor. He said many people in the House were concerned about this bill not allowing enough privatization. He related **HB 574** satisfied the request for privatization. **REP. REHBEIN** also presented to the committee the Comparative Report of Sales by Liquor Stores, **EXHIBIT #7.**

{Tape: 2; Side: A}

HEARING ON SJR 19

Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings, presented **SJR 19.** He stated this resolution would provide an interim study of the feasibility of establishing a state-chartered or state-owned financial institution to accept investment of foreign deposits. He referred to a handout which provided an overview of the

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 3-6-95 BILL NO. HB574 NUMBER _____

MOTION: Do pass as amend

NAME	AYE	NO
Rep. Bruce Simon, Chairman	✓	
Rep. Norm Mills, Vice Chair, Maj.		✓
Rep. Bob Pavlovich, Vice Chair, Min.		✓
Rep: Joe Barnett	✓	✓
Rep. Vicki Cocchiarella		✓
Rep. Charles Devaney	✓	
Rep. Jon Ellingson		✓
Rep. Alvin Ellis, Jr.	✓	
Rep. David Ewer		✓
Rep. Rose Forbes	✓	
Rep. Jack Herron	✓	
Rep. Bob Keenan		✓
Rep. Don Larson		✓
Rep. Rod Marshall		✓
Rep. Jeanette McKee	✓	
Rep. Karl Ohs	✓	
Rep. Paul Sliter	✓	
Rep. Carley Tuss		✓

HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 574** (first reading copy -- white) **do pass as amended.**

Signed: _____
Bruce Simon, Chair

And, that such amendments read:

1. Title, line 20.
Following: "AGREE;"
Insert: "PROVIDING TIME LIMITS RELATING TO GRANTING OR DENYING A LICENSE;"

2. Title, line 23.
Following: "16-4-105,"
Insert: "16-4-207,"
Following: "16-4-401,"
Insert: "16-4-405,"

3. Page 5, line 16.
Following: "must"
Insert: ", in the calculation of the commission rates,"

4. Page 6, lines 12 and 13.
Following: second "store" on line 12
Insert: "established after [the effective date of this act]"

5. Page 6, line 14.
Following: "store"
Insert: "established after [the effective date of this act]"

C.C.

Committee Vote:
Yes 12, No 6.

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6. Page 16, line 13.
Following: "(4)"
Strike: "Agency"
Insert: "The department shall negotiate commissions with agency stores, and agency"

7. Page 16, line 14.
Strike: "10% commission"
Insert: "commission of 10% or more, but not to exceed 15%,"

8. Page 28, line 3.
Insert: "**Section 36.** Section 16-4-207, MCA, is amended to read:

"**16-4-207. Notice of application -- investigation -- publication -- protest.** (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer a retail license, the department shall review the application for completeness and to determine whether the applicant or the premises to be licensed meets criteria provided by law. The department shall request that the department of justice investigate the application as provided in 16-4-402. If after the investigation the department does not discover a basis to deny the application, the department shall promptly publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail license and that protests against the issuance of a license to the applicant by a person who has extended credit to the transferor or residents of the county from which the application comes or adjoining Montana counties may be mailed to a named administrator in the department of revenue within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE

Notice is given that on the .... day of ...., 19.., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where beverages are to be sold). A person who has extended credit to the transferor and residents of ..... counties may protest against the issuance of the license. Protests may be mailed to ...., department of revenue, Helena, Montana, on or before the .... day of ...., 19...

Dated ..... Signed .....
ADMINISTRATOR

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) If the administrator receives no written protests, the department may issue or transfer the license without holding a public hearing. If the issuance or transfer of a license is made without holding a public hearing, the issuance or transfer must be completed within 40 days of the last date of publication under subsection (1). If written protests by a person who has extended credit to the transferor or residents of the county from which the application comes or adjoining Montana counties against the issuance or transfer of the license are received, the department shall hold a public hearing. Unless a later date is set by agreement between the applicant and the department, the public hearing must be held within 30 days of the last date of publication under subsection (1)."""
Renumber: subsequent sections

9. Page 31, line 5.
Insert: "**Section 38.** Section 16-4-405, MCA, is amended to read:

"**16-4-405. Denial of license -- timeliness.** (1) The department may deny the issuance of a retail alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) A retail license may not be issued by the department for a premises situated within a zone of a city or town where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) A license under this code may not be issued if the department finds from the evidence at the hearing held pursuant to 16-4-207(3) that:

(a) the welfare of the people residing in the vicinity of the premises for which the license is desired will be adversely and seriously affected;

(b) there is not a public convenience and necessity justification;

(c) the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code; or

(d) the purposes of this code will not be carried out by the issuance of the license.

(4) The hearings examiner shall issue a proposed decision to grant or deny a license within 60 days after holding a public hearing under 16-4-207. Within 45 days of the expiration of the time period for written exceptions or, if there are oral arguments, within 45 days after oral arguments are held before

the department, the department shall either grant or deny a license application.""

10. Page 33, line 22.
Following: "[Section"
Strike: "24"
Insert: "26"

-END-

COURTESY OF THE STATE LAW LIBRARY OF MONTANA

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business + Labor DATE 3-2-95

BILL NO. HB 574 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRI

NAME AND ADDRESS	REPRESENTING	Support	Oppos
Esther Scott / mgr.	Liquor Store #9		X
Frances Curtis, Mgr.	Belgrade Liquor Store #76		X
Mary Lou Schuler	H & Livingston		X
Bob Gilbert	M.A.L.S.A.	X	
MIKE CETRANO 52 N Main HELENA	RIALTO		X
John W. Hooper Bozeman			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FO
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor DATE 3-2-95

BILL NO. HB 574 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Don Judge	MT STATE AFL-CIO		X
Marc Asbury	Agency # 117		X
BEA HUNOA	SHELBY LIQUOR ST. #39		X
DAN J FELSKA	CONRAD #33		X
[signature]	[illegible]		X
Dan Mayer	~~Helena, MT~~	X	
~~Ly Chadwick 2010 Costa Mesa~~	~~Mt. Beer Wholesalers Helena MT~~	~~X~~	
BRIAN HARRIS	DISTILLED SPIRITS COUNCIL		X
MICKEL CARLSON	LIQ. DIVISION		X
ROD BOETSCH	" "		X
JEFF WILLIAMS	" "		X
ED REISER BOZEMAN	LIQUOR STORE #9		X
DAVE BROWN	Restaurant & Lounge Coalition	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

George Hagerman	AFSCME		✓
Lorraine Burns	Liquor Store # 15	✓	✓
Ken W. Hurt	# 74		
Robert Schreiner	Montana Liquor Reps		X
Leo Thomas	Liquor Store #1		X

EXHIBIT 10
DATE 3-2-85
HB 574

Members of House Business & Labor

My name is Gary Crone, I am employed at State Liquor Store #170, and have been in or around the system since 1973. Bills to "privatize" the system have been handled about nearly every legislative session since that time. None of them would have actually accomplished that end, and this latest proposal wouldn't, either, since the warehouse would still supply merchandise.

If you analyze operations, the warehouse is the weakest link, dictating prices, quantities and availability.

I suggest that if a bill must be processed, that more consideration be afforded present employees and that in the meantime, instead of looking for this $4 million "windfall" from the sale of present store stock, that all stores go into a bailment or consignment mode of operation. This should, over time, accomplish the same liquidation.

Gary Crone
L.S. #170

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 574 NUMBER 5

MOTION:

HB 574 Be Concurred In As Amended

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN	✓	
WILLIAM CRISMORE	✓	
CASEY EMERSON	✓	
GARY FORRESTER		✓
TERRY KLAMPE		✓
KEN MILLER	✓	
MIKE SPRAGUE	✓	
BILL WILSON		✓
JOHN HERTEL, CHAIRMAN	✓	
(Motion HB 574 BCIAA passed 6 aye's to 3 no's)		

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 574 NUMBER 4

MOTION:

Substitute motion: BC/ Sen. Wilson's Amendments HB057401. ABC

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN		✓
WILLIAM CRISMORE	✓	
CASEY EMERSON		✓
GARY FORRESTER	✓	
TERRY KLAMPE	✓	
KEN MILLER		✓
MIKE SPRAGUE		✓
BILL WILSON	✓	
JOHN HERTEL, CHAIRMAN		✓
(Sub. Motion failed – 4 aye's to 5 no's)		

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 574 NUMBER 3

MOTION:

BCI Sen. Emerson's Amendments (HB057402.ABC)

NAME	AYE	NO
STEVE BENEDICT, VICE CHAIRMAN	✓	
WILLIAM CRISMORE		✓
CASEY EMERSON	✓	
GARY FORRESTER		✓
TERRY KLAMPE		✓
KEN MILLER	✓	
MIKE SPRAGUE	✓	
BILL WILSON		✓
JOHN HERTEL, CHAIRMAN	✓	
(Motion passed to BCI Sen. Emerson's amendments) 5 AYE's to 4 NO's		

SEN:1995
wp:rlclvote.man
CS-11

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration HB 574 (third reading copy -- blue), respectfully report that HB 574 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 10.
Following: "~~STORES;~~"
Insert: "PROVIDING THAT ELIGIBLE STATE LIQUOR STORE EMPLOYEES HAVE A RIGHT OF FIRST REFUSAL IN BECOMING AGENTS FOR THE CONVERTED STORES;"

2. Page 2, lines 3 and 7.
Strike: "6"
Insert: "8"

3. Page 2, line 25.
Insert: "NEW SECTION. **Section 3. Purchase of initial inventory and trade fixtures from former state liquor store.** (1) After the selection of an agent pursuant to [section 6] who was an eligible state employee or a business entity consisting of eligible state employees to operate an agency liquor store that is operating as a state liquor store, the person or entity selected as agent and the department of revenue shall agree upon a date of conversion from a state liquor store to an agency liquor store. The date must be between July 1, 1995, and December 1, 1995. As of the day before the conversion date, the department shall calculate a closing statement showing the dollar amount of inventory on hand and the dollar amount of any trade fixtures that the agent chooses to purchase. As soon as practical thereafter, the department shall send to the agency liquor store a statement for the total price of the inventory and trade fixtures, payable in 16 even monthly payments. The price of liquor must be calculated in the same manner as the price for liquor purchased by an agency liquor store under the provisions of 16-2-101. Trade fixtures must be valued by the department as the amount, if any, in excess of the fixtures' depreciated value. The first payment is due 60 days from the date on which the department mails the statement, and each subsequent payment is due on the last day of the month for each month thereafter. At any time after payment of the

Amd. Coord.
Sec. of Senate
Sen. Jon Tester
Senator Carrying Bill

first payment, an agent may pay in full the amount due or may increase the amount of each monthly payment. The payment of increased payments does not waive the making of a monthly payment until the initial purchase price is fully paid.

(2) Any shortages due the state as of the date of conversion must be paid by the store manager if the store manager becomes the liquor store agent or is a partner or shareholder in a business selected as the liquor store agent. The manager shall make payment within 30 days of notice of the amount due."

Renumber: subsequent sections

4. Page 3, line 19.
Strike: "[SECTION 2]"
Insert: "either [section 2] or [section 3]"

5. Page 3, line 26.
Following: "~~and~~"
Insert: "preference rights and"

6. Page 3, line 28.
Strike: "6"
Insert: "8"

7. Page 4, lines 1, 9, and 27.
Strike: "6"
Insert: "8"

8. Page 4.
Following: line 25
Insert: "(2)(a) Notwithstanding any other provision of law, an employee of a state liquor store who meets the requirements of an eligible state employee must be given the right of first refusal for selection of the agent chosen to operate an agency liquor store.

(b) The department's selection criteria in order of priority for selecting an agent for employee-operated state liquor stores to be converted to agency liquor stores are as follows:

(i) The applicant must be either an eligible state employee who is an employee of the store, a partnership with a majority of the partners qualifying as eligible state employees and a majority of the partners working as employees of the state liquor store, or a corporation with at least one shareholder who is an eligible state employee and is an employee of the store.

(ii) If no applicant meets the requirements of subsection (2)(b)(i), the applicant must be either an eligible state employee and an employee of another state liquor store in the same city or town, a partnership with a majority of the partners

qualifying as eligible state employees and employees of another state liquor store in the same city or town, or a corporation with at least one shareholder who is an eligible state employee and is an employee of another state liquor store in the same city or town.

(iii) If no applicant meets the requirements of subsection (2)(b)(i) or (2)(b)(ii), the state agent must be selected by the methods required by the department of administration."

Renumber: subsequent subsection

9. Page 4, line 30.

Insert: "NEW SECTION. **Section 6. Conversion of existing state-operated liquor stores.** (1)(a) Within 45 days of [the effective date of this section], any person or entity, an eligible state employee, or a business entity consisting of eligible state employees, as referred to in [section 5(2)(b)(i)], may file an application or applications to operate as an agency liquor store the liquor store in which the eligible state employee or the employees of the business entity consisting of eligible state employees are employed or to operate as an agency liquor store another liquor store in the same community in which the eligible state employee or employees of the business entity consisting of eligible state employees are employed.

(b) The application must set forth the nature of the entity applying for the agency franchise agreement and the employee's or employees' preference rights, if any, along with any other information that the department of revenue requires.

(2)(a) If the employee or a business entity consisting of eligible state employees is the sole applicant, the department shall enter into an agency franchise agreement with either the employee or the business entity to operate the agency liquor store.

(b) If more than one person or entity or more than one eligible state employee or business entity consisting of eligible state employees applies to be the agent for the liquor store, the department shall use the appropriate competitive bidding procedures to select the agent. However, if eligible state employees or a business entity consisting of eligible state employees matches the bid of any other person or entity, the franchise must be awarded to the eligible state employees or business entity consisting of eligible state employees.

(3) For purposes of this section, an eligible state employee is considered to be an employee of the state liquor store in which the eligible employee worked a majority of the hours between July 1, 1994, and January 6, 1995.

(4) Until converted to an agency liquor store, a state liquor store shall operate under the laws governing the operation

of state liquor stores as those laws read on January 1, 1995."
Renumber: subsequent sections

10. Page 6, line 4.
Strike: "7"
Insert: "9"

11. Page 6, lines 8 and 9.
Strike: "6"
Insert: "8"

12. Page 6, lines 19 and 21.
Strike: "ACT"
Insert: "section"

13. Page 36, lines 3 and 5.
Strike: "7 and 8"
Insert: "9 and 10"

14. Page 36, line 11.
Strike: "24"
Insert: "26"

15. Page 36, line 11.
Strike: "37"
Insert: "39"

-END-

Discussion: SEN. BENEDICT stated this was in current statute.

SEN. WILSON stated the sponsor commented that it was an oversight that it was stricken from the bill originally. He said it should be reinserted into the bill.

SEN. SPRAGUE asked for clarification of the amendment. He believed they would be telling an employment agency, which would be an independent business set up to create employment, to be sensitive to turf battles in the labor world. He thought this seemed an unrealistic requirement.

SEN. BENEDICT stated there had been times when they had not had the opportunity to take bad laws off the book. He explained that was why he opposed this amendment.

Vote: The motion **FAILED 6-3** on roll call vote **(#2)**.

Motion/Vote: **SEN. BENEDICT MOVED HB 518 BE CONCURRED IN AS AMENDED.** The motion **CARRIED 7-2** on oral vote with **SEN. FORRESTER** and **SEN. WILSON** voting **"NO". SEN. HERTEL** will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 574

Discussion: **Mr. Campbell** explained there were two sets of amendments. **SEN. WILSON's** amendments replaced everything the House floor amendments removed with respect to the first right of refusal. **SEN. EMERSON's** amendments were a lot like **SEN. WILSON's** with the exception of making this a true first right of refusal wherein the public would be bidding at the beginning and the employees had the right to match. He claimed the only difference would be amendment 9, at the bottom of page 2, where it stated "any person or entity . . . may file an application."

Motion: **SEN. EMERSON MOVED TO AMEND HB 574, AMENDMENT HB07402.ABC.**

Discussion: **SEN. EMERSON** stated his intent was that the board not allow a second bid to lower the bid.

Mr. Campbell stated that since the bill was so complex, the early sections of the bill may not fit in with this amendment.

SEN. WILSON commented that Section 6 of **SEN. EMERSON's** amendments stated any person or entity would be allowed to make a bid. He related it would appear to him this would be opened up to anyone who had the resources. He asserted someone with deep pockets could throw the current store manager out of the process. **Mr. Campbell** stated the two different sets of amendments were very different.

SEN. SPRAGUE stated the bill had no state employee preference. He conveyed those amendments would put back a first right of refusal. He stated this was not as good a preference, but it did keep the employee in the game. He said it would give a state employee bidding opportunity as well as first right of refusal to meet the bid.

Mr. Campbell commented he understood **SEN. EMERSON's** intent and he tried to incorporate that into the bill as best as possible. He related the problem was the bill was created for the state to divest itself from participation in the system. He maintained one concern, if **SEN. EMERSON's** amendment was adopted with open bid process, was how would that effect Section 3? Section 3 stated after the selection of an agent pursuant to (6) who was an eligible state employee or a business entity of the state employee . . . The entire section went to state employees who won the bid. His concern was the due process involved in (6).

SEN. SPRAGUE stated this seemed to be a state employee preference in the bidding process. He declared if he were an individual who was not a state employee, he would not have the same terms and conditions in the bidding process as his opponent. He would be even more cautious because he would be assuming a large inventory and had to pay interest on it. **Gary Blewett, Department of Revenue,** commented the new Section 6 would open this to everyone. He conveyed there would then be an opportunity for the employee to say they would match it. He alleged, assuming the employee ended up with the bid, the new Section 3 on page 1 would be in effect. He maintained if an employee did not match the low bid, Section 3 would be inoperative. He contended the bidder had to meet whatever terms the Department would set up.

SEN. MILLER asked **Mr. Blewett** how he perceived the bidding process. **Mr. Blewett** stated there was a problem with the layering issue. He thought 45 days was a very short time for soliciting bids. He would like that changed to a longer period of time.

Mr. Campbell pointed out that on page 5, the **SEN. EMERSON** amendment would strike (3) because that would put a limit on the commission of state employees. **Mr. Blewett** stated that would be no more than clarification language. He said there was language elsewhere which stated if the population of a community was under 3,000, the commission rate was fixed at 10%. He expressed under those provisions, the Department of Administration's request for a bid was a request for a proposal. He maintained price would not be a factor.

SEN. BENEDICT stated he agreed with **SEN. EMERSON's** amendments. Looking at **SEN. WILSON's** amendments, he saw there was an absolute preference for state employees which didn't relate to only the employees who ran the store. He contended the only ones who would be able to bid initially would be state employees. He explained if no one placed a bid in 45 days, it would then be

open to the public. **SEN. WILSON** stated if no one bid in the 45 day time frame, it would be open to people in the city and then to the public.

SEN. EMERSON stated his amendments would reflect the purpose of a true right of first refusal. He declared this would allow the state to get the best price they could get. He professed a total preference for employees may be costly to the state. .

SEN. SPRAGUE stated he was not sure that state employees saw their advantage. He related they had a tremendous advantage over an outside bidder. He thought there was a possibility that a frugal investor could position a state employee to front for him. He alleged the state employee could purchase the store and within 30 days sell it to someone else for the difference.

SEN. KLAMPE commented the people who worked out this deal did not have the true right of first refusal in mind. He thought employees should have the advantage.

SEN. MILLER stated the House originally tabled this bill because of the original language. He thought there was a good possibility it would be tabled again. He told the committee **SEN. EMERSON's** amendments may get this bill through.

SEN. EMERSON commented they needed to treat the state employees fairly as well as see to it that the state received a reasonable price.

Vote: The motion **CARRIED 5-4** on roll call vote **(#3)**.

Substitute Motion: **SEN. WILSON MOVED TO FURTHER AMEND HB 574. (AMENDMENT HB057401.ABC)**

Discussion: **SEN. MILLER** stated they had given another advantage to the stores which they did not have before. He contended they could charge more for their retail package liquor.

Vote: The substitute motion **FAILED** on roll call vote **(#4)**.

Motion/Vote: **SEN. BENEDICT MOVED HB 574 AS AMENDED BE CONCURRED IN.** The motion **CARRIED 6-3** on roll call vote **(#5)**. **SEN. MILLER** will carry the bill on the Senate floor.

DATE March 21, 1995

SENATE COMMITTEE ON Business & Industry

BILLS BEING HEARD TODAY: HB 574 Rep. Kitzenberg

SJR 19 Senator Sprague

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Mary Ann Sprague	Cut Bank Liquor Store #45	574	✓	✓
MARK STARPLES	MONTANA TAVERN ASSOC	574	✓	
MIKE GRUNOW	MALSA	574	✓	
Michael Lemm	Liquor Rep	574		
ED REISER	LIQUOR STORE #9	574	Amended first proposal	
Pam Miller	U.F.C.W.	574	Amended for 1st right of refusal	
Mick Robinson	DOR	574	✓	
Dave Manning	Fed Bankers Assn	574		✓
Tom Hopgood	Mt. Indep. Bankers Assn	SJ 19	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE March 21, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: House Bill 574 Rep. Rehbein SJR 19 Senator Sprague

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Don Judge	MT STATE AFL-CIO	HB 574		X
W. D. Hill	Band w/ Hill'ers	574		X
Jeff Williams	Self	574		X
Jill Mogen	self	574		X
SHANE FARNSWORTH	Self	574		X
Doug Kirby	self	574		X
JIM NOBLE	SELF	574		X
Brian Harris	Distilled Spirits Council			
Bob Gilbert	MT Agency Liquor Stores	574	X	
~~Jim Sayer~~	Self	574		X
~~MARK BLINN~~	~~SELF~~	~~574~~		~~X~~ X
Tim DALIN	MMALSA	574	X	
JOHN CADBY	MT BANKERS ASSN	SJR 19	X	
BEA LUNDA	SHELBY ST. #29	574	~~X~~	X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 3-21-95
BILL NO. HB 574

Department of Revenue – Liquor Enterprise Fund
Comparative Report of Sales by Liquor Stores
Fiscal Years Ended June 30, 1994 and June 30, 1993

Store No.	Location	1994	1993	Store No.	Location	1994	1993
167	Absarokee	$ 169,922	88,915	85	Darby	$ 65,603	$
138	Alberton	75,544	74,489	11	Deer Lodge	70,545	253,728
14	* Anaconda	759,480	719,836	32	Dillon	552,865	520,491
88	Ashland	0	8,166	68	Drummond	92,217	76,657
81	Augusta	48,256	17,736	131	Dupuyer	168,199	121,599
42	Baker	150,832	135,542	113	Dutton	0	2,947
76	Belgrade	387,903	336,443	191	East Glacier	0	16,506
63	Belt	38,134	29,114	83	East Helena	472,499	448,990
179	Big Fork	555,662	526,247	41	Ekalaka	0	7,220
97	Big Sandy	94,057	97,862	60	Ennis	320,768	297,382
190	Big Sky	374,690	333,589	69	Eureka	259,513	270,264
17	Big Timber	211,593	201,686	67	Evergreen	404,979	426,583
3	* Billings	1,773,292	1,884,115	130	Fairfield	85,396	89,694
4	* Billings	2,618,707	2,656,823	23	Forsyth	316,422	345,319
196	* Billings	1,918,588	1,842,131	31	Fort Benton	144,331	139,544
56	Boulder	125,489	128,504	75	Frenchtown	67,213	66,818
9	* Bozeman	1,304,716	1,248,442	156	Geyser	15,668	17,114
193	* Bozeman	1,186,352	1,253,149	24	* Glasgow	370,395	422,008
91	Bridger	69,836	67,542	21	* Glendive	427,965	438,579
40	Broadus	106,317	111,553	139	* Great Falls	737,342	1,115,677
189	Browning	0	65,411	140	Great Falls	1,828,515	1,208,818
2	* Butte	621,000	663,210	141	* Great Falls	1,614,468	2,096,801
116	* Butte	1,412,362	1,436,481	18	Hamilton	800,010	823,618
79	Cascade	0	(84)	37	Hardin	245,716	255,312
28	Chinook	250,989	249,318	38	Harlowton	131,797	124,361
34	Choteau	115,791	135,980	26	* Havre	981,812	1,026,145
73	Columbia Falls	376,474	385,942	1	* Helena	2,291,681	2,405,395
16	Columbus	157,264	196,933	61	Hot Springs	62,999	56,431
33	Conrad	222,444	220,553	10	Hysham	30,158	31,002
45	Cut Bank	483,009	485,052	12	* Kalispell	1,483,059	1,543,112

* Denotes State Employee Operated Stores

Schedule continued on next page

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 3-21-95
BILL NO. HB 574

NAME Doug Kirby

ADDRESS 2260 Boulder Bigs

HOME PHONE 656-9024 WORK PHONE 656-0046

REPRESENTING

APPEARING ON WHICH PROPOSAL? 574

DO YOU: SUPPORT _____ OPPOSE _____ AMEND V

COMMENTS:

Amend bill to allow current liquor store employees first right of refusal. Most of these employees have been working for the state numerous years and have a lot of experience. Allowing current employees to take over the stores will save unemployment costs.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

WITNESS.F11

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3-21-95
BILL NO. HB 574

NAME Jill Mogen

ADDRESS 516 S 32nd

HOME PHONE 256-9742 WORK PHONE 656-0046

REPRESENTING self

APPEARING ON WHICH PROPOSAL? HB 574

DO YOU: SUPPORT ____ OPPOSE X AMEND X

COMMENTS:

I would support this bill with the following changes:
1) Reinstate the employees right of first refusal
2) Lengthen the time until the effective date ~~until~~ to Jan. 1996 in order to give employees time to prepare for implementation & to ensure a smooth transition.
3) Lower the case sale discount to 5% or raise the agents commission rate to a minimum of 8% or give the agents the same case sale discount that licensees are given.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

WITNESS.F11

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-21-95
BILL NO. HB 574

NAME SHANE FARNSWORTH

ADDRESS 2024 ALDERSON #5

HOME PHONE 652-7130 WORK PHONE 259-2265

REPRESENTING MYSELF

APPEARING ON WHICH PROPOSAL? HB 574

DO YOU: SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS:

I wish to see HB574 reamended to reflect the initial proposal. The employees should not be penalized by this bill. The 1st right of refusal should be readded. There is a mechanism within this bill that would allow the general population to participate in this bill if no current employees are interested in becoming agents.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

WITNESS.F11

EXHIBIT 3-D
DATE 3-21-95
HB 574

IQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 4 LOCATION Billings 4° Initial Purchase : 6 weeks supply

BEGIN YEAR 2

Dec 197

ommission rate	5.88%
iscount rate (adjusted for discount increase)	4.29%
iscount rate (FY94 discounts divided by FY94 gross sales)	2.68%
Y94 discounts granted	72,192
Y94 gross sales	2,690,899
Y94 units sold	301,269
verage retail posted price per unit	$8.93
umber of weeks of inventory for initial shelf/buffer, 2 wk sale	6
verage units sold per week in FY94	5,794

	JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
monthly distribution of annual units sold	9.21%		8.72%		7.99%		8.32%		9.04%		11.92%		6.02%		7.72%		7.79%		7.42%		7.75%		8.07%	
otal Sales This Month (units)	27,760		26,279		24,078		25,076		27,247		35,917		18,143		23,258		23,480		22,369		23,342		24,320	
otal Sales This Month ($)	$247,949		$234,721		$215,062		$223,976		$243,367		$320,806		$162,051		$207,738		$209,721		$199,797		$208,488		$217,223	
NVENTORY PURCHASES																								
NITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate																								
NVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	111,363	111,363	105,422	105,422	96,592	96,592	100,596	100,596	109,305	109,305	144,086	144,086	72,783	72,783	93,303	93,303	94,193	94,193	89,736	89,736	93,640	93,640	97,563	97,563
ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)	111,363	111,363	105,422	105,422	96,592	96,592	100,596	100,596	109,305	109,305	144,086	144,086	72,783	72,783	93,303	93,303	94,193	94,193	89,736	89,736	93,640	93,640	97,563	97,563
REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
Payments on initial shelf stock, back room buffer & 2 weeks sales		(17,431)		(17,431)		(17,431)		(17,431)		(17,431)		(17,431)												
Payments on inventory purchased 60 days prior	(93,640)	(97,563)	(97,563)	(111,363)	(111,363)	(105,422)	(105,422)	(96,592)	(96,592)	(100,596)	(100,596)	(109,305)	(109,305)	(144,086)	(144,086)	(72,783)	(72,783)	(93,303)	(93,303)	(94,193)	(94,193)	(89,736)	(89,736)	(93,640)
															216,869									
CUMMULATIVE NET INVENTORY PAYABLES	393,647	390,015	397,874	374,502	359,731	333,470	328,644	315,216	327,929	319,206	362,697	380,046	343,524	272,221	221,438	241,957	263,367	264,258	260,692	256,235	255,681	259,584	267,411	271,335
NCOME																								
TOTAL SALES THIS PERIOD	123,975	123,975	117,360	117,360	107,531	107,531	111,988	111,988	121,683	121,683	160,403	160,403	81,026	81,026	103,869	103,869	104,860	104,860	99,899	99,899	104,244	104,244	108,612	108,612
DISCOUNTS APPLIED THIS PERIOD	(5,322)	(5,322)	(5,038)	(5,038)	(4,616)	(4,616)	(4,807)	(4,807)	(5,223)	(5,223)	(6,885)	(6,885)	(3,478)	(3,478)	(4,459)	(4,459)	(4,501)	(4,501)	(4,288)	(4,288)	(4,475)	(4,475)	(4,662)	(4,662)
NET INCOME THIS PERIOD	118,653	118,653	112,323	112,323	102,915	102,915	107,181	107,181	116,460	116,460	153,518	153,518	77,548	77,548	99,410	99,410	100,359	100,359	95,610	95,610	99,769	99,769	103,950	103,950
AVAILABLE FOR EXPENSES & PROFIT Commission payment equivalent	7,290	7,290	6,901	6,901	6,323	6,323	6,585	6,585	7,155	7,155	9,432	9,432	4,764	4,764	6,107	6,107	6,166	6,166	5,874	5,874	6,130	6,130	6,386	6,386
INVENTORY PAYABLES RESERVE FUND																								
Contributions (net income less amount avail. for expns. & profit)	111,363	111,363	105,422	105,422	96,592	96,592	100,596	100,596	109,305	109,305	144,086	144,086	72,783	72,783	93,303	93,303	94,193	94,193	89,736	89,736	93,640	93,640	97,563	97,563
Cummulative fund balance (less reductions to payables)	226,106	222,475	230,334	206,961	192,190	165,929	161,103	147,675	160,358	151,666	195,156	212,505	175,983	104,680	53,397	74,417	95,927	96,717	93,151	88,694	88,140	92,044	99,370	103,794
															128,314									

-88,555

LIQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 50 LOCATION Sidney — Initial Purchase : 6 weeks supply

BEGIN YEAR 2

LINE#		
1	Commission rate	9.98%
2	Discount rate (adjusted for discount increase)	1.66%
3	Discount rate (FY94 discounts divided by FY94 gross sales)	1.03%
4	FY94 discounts granted	4,467
5	FY94 gross sales	431,674
6	FY94 units sold	42,657
7	Average retail posted price per unit	$10.12
8	Number of weeks of inventory for initial shelf,buffer, 2 wk sale	6
9	Average units sold per week in FY94	820

		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
10	Monthly distribution of annual units sold	10.35%		7.17%		7.77%		8.69%		8.97%		13.93%		6.27%		7.20%		7.67%		7.87%		6.80%		7.30%	
11	Total Sales This Month (units)	4,417		3,060		3,314		3,705		3,828		5,944		2,675		3,072		3,272		3,357		2,899		3,114	
12	Total Sales This Month ($)	$44,698		$30,966		$33,537		$37,493		$38,738		$60,151		$27,070		$31,088		$33,111		$33,972		$29,337		$31,513	
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate	19,749	19,749	13,682	13,682	14,817	14,817	16,565	16,565	17,115	17,115	26,576	26,576	11,960	11,960	13,735	13,735	14,629	14,629	15,009	15,009	12,962	12,962	13,923	13,923
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	19,749	19,749	13,682	13,682	14,817	14,817	16,565	16,565	17,115	17,115	26,576	26,576	11,960	11,960	13,735	13,735	14,629	14,629	15,009	15,009	12,962	12,962	13,923	13,923
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)																								
	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
16	Payments on Initial shelf stock, back room buffer & 2 weeks sales		(2,751)		(2,751)		(2,751)		(2,751)		(2,751)		(2,751)				(26,576)	(11,960)	(11,960)	(13,735)	(13,735)	(14,629)	(14,629)	(15,009)	(15,009)
17	Payments on inventory purchased 60 days prior	(12,962)	(13,923)	(13,923)	(19,749)	(19,749)	(13,682)	(13,682)	(14,817)	(14,817)	(16,565)	(16,565)	(17,115)	(17,115)	(26,576)		38536							(12,962)	(13,923)
18	CUMMULATIVE NET INVENTORY PAYABLES	61,349	64,424	64,182	55,364	50,433	48,817	51,701	50,699	52,997	50,796	60,807	67,517	62,362	47,746	34,905	36,680	39,349	40,243	41,517	41,397	40,230	38,182	37,095	38,057
	INCOME																								
19	TOTAL SALES THIS PERIOD	22,349	22,349	15,483	15,483	16,768	16,768	18,747	18,747	19,369	19,369	30,076	30,076	13,535	13,535	15,544	15,544	16,556	16,556	16,986	16,986	14,668	14,668	15,756	15,756
20	DISCOUNTS APPLIED THIS PERIOD	(370)	(370)	(256)	(256)	(278)	(278)	(310)	(310)	(321)	(321)	(498)	(498)	(224)	(224)	(257)	(257)	(274)	(274)	(281)	(281)	(243)	(243)	(261)	(261)
21	NET INCOME THIS PERIOD	21,979	21,979	15,227	15,227	16,491	16,491	18,436	18,436	19,048	19,048	29,578	29,578	13,311	13,311	15,286	15,286	16,282	16,282	16,705	16,705	14,426	14,426	15,495	15,495
	AVAILABLE FOR EXPENSES & PROFIT																								
22	Commission payment equivalent	2,230	2,230	1,545	1,545	1,673	1,673	1,871	1,871	1,933	1,933	3,002	3,002	1,351	1,351	1,551	1,551	1,652	1,652	1,695	1,695	1,464	1,464	1,572	1,572
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	19,749	19,749	13,682	13,682	14,817	14,817	16,565	16,565	17,115	17,115	26,576	26,576	11,960	11,960	13,735	13,735	14,629	14,629	15,009	15,009	12,962	12,962	13,923	13,923
24	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	36,543	43,252	33,097	23,481	10,640	12,415	15,085	15,979	17,253	17,633	15,965	13,918	12,831	13,793
																		23055							
																		-15481							

24197 Versus

LIQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 192 LOCATION Lolo — Initial Purchase : 6 weeks supply

BEGIN YEAR 2

2dl 197
Cuts

LINE#		
1	Commision rate	10.00%
2	Discount rate (adjusted for discount increase)	3.87%
3	Discount rate (FY94 discounts divided by FY94 gross sales)	2.42%
4	FY94 discounts granted	16,110
5	FY94 gross sales	666,136
6	FY94 units sold	64,289
7	Average retail posted price per unit	$10.36
8	Number of weeks of inventory for initial shelf,buffer, 2 wk sale	6
9	Average units sold per week in FY94	1,236
10	Monthly distribution of annual units sold	8.93% 8.35% 8.11% 9.05% 8.52% 11.48% 6.81% 6.98% 7.92% 7.65% 7.35% 8.85%
11	Total Sales This Month (units)	5,742 5,367 5,216 5,818 5,477 7,381 4,379 4,487 5,090 4,917 4,723 5,692
12	Total Sales This Month ($)	$59,470 $55,586 $54,023 $60,257 $56,726 $76,446 $45,354 $46,472 $52,718 $50,926 $48,916 $58,952

		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate																								
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	25,611	25,611	23,938	23,938	23,265	23,265	25,950	25,950	24,429	24,429	32,921	32,921	19,532	19,532	20,013	20,013	22,703	22,703	21,931	21,931	21,066	21,066	25,388	25,388
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)	25,611	25,611	23,938	23,938	23,265	23,265	25,950	25,950	24,429	24,429	32,921	32,921	19,532	19,532	20,013	20,013	22,703	22,703	21,931	21,931	21,066	21,066	25,388	25,388
	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
16	Payments on Initial shelf stock, back room buffer & 2 weeks sales		(4,136)		(4,136)		(4,136)		(4,136)		(4,136)		(4,136)												
17	Payments on inventory purchased 60 days prior	(21,066)	(25,388)	(25,388)	(25,611)	(25,611)	(23,938)	(23,938)	(23,265)	(23,265)	(25,950)	(25,950)	(24,429)	(24,429)	(32,921)	(32,921)	(19,532)	(19,532)	(20,013)	(20,013)	(22,703)	(22,703)	(21,931)	(21,931)	(21,066)
																52,453									
18	CUMMULATIVE NET INVENTORY PAYABLES	97,066	93,153	91,704	85,895	83,549	78,740	80,751	79,301	80,465	74,808	81,780	86,136	81,239	67,849	54,941	55,423	58,594	61,283	63,201	62,430	60,793	59,928	63,384	67,706
	INCOME																								
19	TOTAL SALES THIS PERIOD	29,735	29,735	27,793	27,793	27,011	27,011	30,129	30,129	28,363	28,363	38,223	38,223	22,677	22,677	23,236	23,236	26,359	26,359	25,463	25,463	24,458	24,458	29,476	29,476
20	DISCOUNTS APPLIED THIS PERIOD	(1,151)	(1,151)	(1,075)	(1,075)	(1,045)	(1,045)	(1,166)	(1,166)	(1,097)	(1,097)	(1,479)	(1,479)	(877)	(877)	(899)	(899)	(1,020)	(1,020)	(985)	(985)	(946)	(946)	(1,141)	(1,141)
21	NET INCOME THIS PERIOD	28,585	28,585	26,718	26,718	25,966	25,966	28,963	28,963	27,265	27,265	36,744	36,744	21,799	21,799	22,337	22,337	25,339	25,339	24,478	24,478	23,512	23,512	28,336	28,336
	AVAILABLE FOR EXPENSES & PROFIT																								
22	Commission payment equivalent	2,974	2,974	2,779	2,779	2,701	2,701	3,013	3,013	2,836	2,836	3,822	3,822	2,268	2,268	2,324	2,324	2,636	2,636	2,546	2,546	2,446	2,446	2,948	2,948
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	25,611	25,611	23,938	23,938	23,265	23,265	25,950	25,950	24,429	24,429	32,921	32,921	19,532	19,532	20,013	20,013	22,703	22,703	21,931	21,931	21,066	21,066	25,388	25,388
24	Cummulative fund balance (less reductions to payables)	56,504	52,592	51,142	45,334	42,988	38,178	40,190	38,739	39,903	34,247	41,218	45,575	40,677	27,257	14,379	14,361	18,032	20,722	22,640	21,968	20,231	19,366	22,923	27,145
																29,240									
																-23,213									

EXHIBIT 3-D
DATE 3-21-95
HB 574

LIQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 33 LOCATION Condrad — Initial Purchase: 6 weeks supply

BEGIN YEAR 2

Feb '97 V crisis

LINE#		
1	Commision rate	10.00%
2	Discount rate (adjusted for discount increase)	1.59%
3	Discount rate (FY94 discounts divided by FY94 gross sales)	0.99%
4	FY94 discounts granted	2,227
5	FY94 gross sales	224,671
6	FY94 units sold	21,478
7	Average retail posted price per unit	$10.46
8	Number of weeks of inventory for initial shelf,buffer, 2 wk sale	6
9	Average units sold per week in FY94	413

		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
10	Monthly distribution of annual units sold	8.36%		7.92%		8.20%		9.51%		9.36%		14.03%		5.35%		6.52%		7.86%		6.39%		8.32%		7.67%	
11	Total Sales This Month (units)	1,796		1,702		1,761		2,043		2,011		3,013		1,150		1,400		1,689		1,480		1,786		1,647	
12	Total Sales This Month ($)	$18,787		$17,804		$18,421		$21,371		$21,036		$31,517		$12,030		$14,645		$17,668		$15,482		$18,682		$17,228	
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate																								
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	8,305	8,305	7,871	7,871	8,143	8,143	9,447	9,447	9,299	9,299	13,933	13,933	5,318	5,318	6,474	6,474	7,810	7,810	6,844	6,844	8,259	8,259	7,616	7,616
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)	8,305	8,305	7,871	7,871	8,143	8,143	9,447	9,447	9,299	9,299	13,933	13,933	5,318	5,318	6,474	6,474	7,810	7,810	6,844	6,844	8,259	8,259	7,616	7,616
	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
16	Payments on Initial shelf stock, back room buffer & 2 weeks sales		(1,433)		(1,433)		(1,433)		(1,433)		(1,433)		(1,433)												
17	Payments on inventory purchased 60 days prior	(8,259)	(7,616)	(7,616)	(8,305)	(8,305)	(7,871)	(7,871)	(8,143)	(8,143)	(9,447)	(9,447)	(9,299)	(9,299)	(13,933)	(13,933)	(5,318)	(5,318)	(6,474)	(6,474)	(7,810)	(7,810)	(6,844)	(6,844)	(8,259)
																$19,251		$11,792		$14,284		$14,654		$15,103	
18	CUMMULATIVE NET INVENTORY PAYABLES	30,700	29,957	30,211	28,344	28,182	27,022	28,599	28,471	29,627	28,046	32,532	35,733	31,751	23,136	15,677	16,933	19,326	20,662	21,032	20,066	20,514	21,929	22,702	22,059
	INCOME																								
19	TOTAL SALES THIS PERIOD	9,394	9,394	8,902	8,902	9,210	9,210	10,685	10,685	10,518	10,518	15,759	15,759	6,015	6,015	7,322	7,322	8,834	8,834	7,741	7,741	9,341	9,341	8,614	8,614
20	DISCOUNTS APPLIED THIS PERIOD	(149)	(149)	(141)	(141)	(146)	(146)	(169)	(169)	(167)	(167)	(250)	(250)	(95)	(95)	(116)	(116)	(140)	(140)	(123)	(123)	(148)	(148)	(137)	(137)
21	NET INCOME THIS PERIOD	9,245	9,245	8,761	8,761	9,064	9,064	10,516	10,516	10,351	10,351	15,509	15,509	5,919	5,919	7,206	7,206	8,694	8,694	7,618	7,618	9,193	9,193	8,478	8,478
	AVAILABLE FOR EXPENSES & PROFIT																								
22	Commission payment equivalent	939	939	890	890	921	921	1,069	1,069	1,052	1,052	1,576	1,576	601	601	732	732	883	883	774	774	934	934	861	861
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	8,305	8,305	7,871	7,871	8,143	8,143	9,447	9,447	9,299	9,299	13,933	13,933	5,318	5,318	6,474	6,474	7,810	7,810	6,844	6,844	8,259	8,259	7,616	7,616
24	Cummulative fund balance (less reductions to payables)	16,085	15,342	15,596	13,729	13,567	12,407	13,984	13,356	15,012	13,431	17,917	21,113	17,137	8,521	1,062	2,219	4,711	6,047	5,417	5,458	5,399	7,316	8,087	7,444
																$3281		$10,758		$11,868		$13,214		$15,531	
																-15,970		-1038		-2416		-1440		+428	

LIQUOR AGENCY PRODUCT PURCHASE MODEL STORE # 172 LOCATION Victor Initial Purchase : 6 weeks supply

BEGIN YEAR 2

216.197 Crisis

LINE#																									
1	Commission rate	10.00%																							
2	Discount rate (adjusted for discount increase)	1.71%																							
3	Discount rate (FY94 discounts divided by FY94 gross sales)	1.07%																							
4	FY94 discounts granted	5,340																							
5	FY94 gross sales	499,176																							
6	FY94 units sold	51,259																							
7	Average retail posted price per unit	39.74																							
8	Number of weeks of inventory for initial shelf buffer, 2 wk sale	6																							
9	Average units sold per week in FY94	986																							
10	Monthly distribution of annual units sold		9.74%		7.82%		8.72%		8.76%		8.70%		10.92%		6.03%		6.91%		7.92%		8.20%		7.87%		8.41%	
11	Total Sales This Month (units)		4,991		4,009		4,472		4,489		4,458		5,597		3,093		3,542		4,062		4,202		4,032		4,312	
12	Total Sales This Month ($)		$48,604		$39,041		$43,550		$43,715		$43,413		$54,505		$30,121		$34,493		$39,557		$40,920		$39,265		$41,992	
		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate																								
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	21,456	21,456	17,234	17,234	19,225	19,225	19,298	19,298	19,164	19,164	24,061	24,061	13,296	13,296	15,227	15,227	17,462	17,462	18,064	18,064	17,333	17,333	18,537	18,537
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)	21,456	21,456	17,234	17,234	19,225	19,225	19,298	19,298	19,164	19,164	24,061	24,061	13,296	13,296	15,227	15,227	17,462	17,462	18,064	18,064	17,333	17,333	18,537	18,537
	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
16	Payments on Initial shelf stock, back room buffer & 2 weeks sales		(3,178)		(3,178)		(3,178)		(3,178)		(3,178)		(3,178)												
17	Payments on inventory purchased 60 days prior	(17,333)	(18,537)	(18,537)	(21,456)	(21,456)	(17,234)	(17,234)	(19,225)	(19,225)	(19,298)	(19,298)	(19,164)	(19,164)	(24,061)	(24,061)	(13,295)	(13,296)	(15,227)	(15,227)	(17,462)	(17,462)	(18,064)	(18,064)	(17,333)
																37,357									
18	CUMMULATIVE NET INVENTORY PAYABLES	74,421	74,161	72,859	65,459	63,228	62,040	64,104	60,998	60,938	57,627	62,390	64,108	58,240	47,476	38,641	40,572	44,737	46,973	49,810	50,412	50,283	49,552	50,025	51,229
	INCOME																								
19	TOTAL SALES THIS PERIOD	24,302	24,302	19,520	19,520	21,775	21,775	21,858	21,858	21,707	21,707	27,253	27,253	15,060	15,060	17,247	17,247	19,779	19,779	20,460	20,460	19,632	19,632	20,996	20,996
20	DISCOUNTS APPLIED THIS PERIOD	(416)	(416)	(334)	(334)	(373)	(373)	(374)	(374)	(372)	(372)	(466)	(466)	(258)	(258)	(295)	(295)	(339)	(339)	(350)	(350)	(336)	(336)	(359)	(359)
21	NET INCOME THIS PERIOD	23,886	23,886	19,186	19,186	21,402	21,402	21,484	21,484	21,335	21,335	26,786	26,786	14,803	14,803	16,951	16,951	19,440	19,440	20,110	20,110	19,296	19,296	20,636	20,636
	AVAILABLE FOR EXPENSES & PROFIT																								
22	Commission payment equivalent	2,430	2,430	1,952	1,952	2,177	2,177	2,186	2,186	2,171	2,171	2,725	2,725	1,506	1,506	1,725	1,725	1,978	1,978	2,046	2,046	1,963	1,963	2,100	2,100
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	21,456	21,456	17,234	17,234	19,225	19,225	19,298	19,298	19,164	19,164	24,061	24,061	13,296	13,296	15,227	15,227	17,462	17,462	18,064	18,064	17,333	17,333	18,537	18,537
24	Cummulative fund balance (less reductions to payables)	45,025	44,765	43,463	36,063	33,832	32,644	34,708	31,603	31,542	28,231	32,994	34,712	28,844	18,080	9,246	11,176	15,341	17,577	20,414	21,016	20,887	20,156	20,629	21,833
																20,422									

-16935

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3-D
DATE 3-21-95
BILL NO. HB 574

LIQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 104 LOCATION Whitehall
BEGIN YEAR 2

Initial Purchase: 6 weeks supply

Sept 1997 Crisis

LINE#		
1	Commision rate	10.00%
2	Discount rate (adjusted for discount increase)	0.52%
3	Discount rate (FY94 discounts divided by FY94 gross sales)	0.32%
4	FY94 discounts granted	404
5	FY94 gross sales	125,044
6	FY94 units sold	11,063
7	Average retail posted price per unit	$11.30
8	Number of weeks of inventory for initial shelf,buffer, 2 wk sale	6
9	Average units sold per week in FY94	213
10	Monthly distribution of annual units sold	10.48% / 8.09% / 8.57% / 9.18% / 8.70% / 11.85% / 5.61% / 6.49% / 7.80% / 7.63% / 7.35% / 8.24%
11	Total Sales This Month (units)	1,159 / 895 / 948 / 1,016 / 963 / 1,311 / 621 / 718 / 863 / 844 / 813 / 912
12	Total Sales This Month ($)	$13,100 / $10,116 / $10,715 / $11,484 / $10,885 / $14,818 / $7,019 / $8,115 / $9,754 / $9,540 / $9,189 / $10,308

		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate																								
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	5,861	5,861	4,526	4,526	4,794	4,794	5,138	5,138	4,870	4,870	6,630	6,630	3,140	3,140	3,631	3,631	4,364	4,364	4,268	4,268	4,111	4,111	4,612	4,612
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)	5,861	5,861	4,526	4,526	4,794	4,794	5,138	5,138	4,870	4,870	6,630	6,630	3,140	3,140	3,631	3,631	4,364	4,364	4,268	4,268	4,111	4,111	4,612	4,612
	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD																								
16	Payments on initial shelf stock, back room buffer & 2 weeks sales		(807)		(807)		(807)		(807)		(807)		(807)												
17	Payments on inventory purchased 60 days prior	(4,111)	(4,612)	(4,612)	(5,861)	(5,861)	(4,526)	(4,526)	(4,794)	(4,794)	(5,138)	(5,138)	(4,870)	(4,870)	(6,630)	(6,630)	(3,140)	(3,140)	(3,631)	(3,631)	(4,364)	(4,364)	(4,268)	(4,268)	(4,111)
18	CUMMULATIVE NET INVENTORY PAYABLES	19,120	19,562	19,476	17,334	16,267	15,728	16,340	15,877	15,953	14,878	16,370	17,323	15,593	12,104	9,105	9,596	10,819	11,553	12,190	12,094	11,841	11,684	12,028	12,529
	INCOME																								
19	TOTAL SALES THIS PERIOD	6,550	6,550	5,058	5,058	5,358	5,358	5,742	5,742	5,442	5,442	7,409	7,409	3,510	3,510	4,058	4,058	4,877	4,877	4,770	4,770	4,595	4,595	5,154	5,154
20	DISCOUNTS APPLIED THIS PERIOD	(34)	(34)	(26)	(26)	(28)	(28)	(30)	(30)	(28)	(28)	(38)	(38)	(18)	(18)	(21)	(21)	(25)	(25)	(25)	(25)	(24)	(24)	(27)	(27)
21	NET INCOME THIS PERIOD	6,516	6,516	5,032	5,032	5,330	5,330	5,712	5,712	5,414	5,414	7,371	7,371	3,491	3,491	4,037	4,037	4,852	4,852	4,745	4,745	4,571	4,571	5,127	5,127
	AVAILABLE FOR EXPENSES & PROFIT																								
22	Commission payment equivalent	653	653	506	506	536	536	574	574	544	544	741	741	351	351	406	406	488	488	477	477	459	459	515	515
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	5,861	5,861	4,526	4,526	4,794	4,794	5,138	5,138	4,870	4,870	6,630	6,630	3,140	3,140	3,631	3,631	4,364	4,364	4,268	4,268	4,111	4,111	4,612	4,612
24	Cummulative fund balance (less reductions to payables)	12,070	12,513	12,427	10,285	9,218	8,679	9,291	8,827	8,903	7,823	9,320	10,273	8,544	5,054	2,055	2,546	3,770	4,503	5,140	5,044	4,791	4,635	4,978	5,479

9770 6771 4601 8273 -5169 +1502 8273 8171

$24,000

$10,000

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3-D
DATE 3-21-95
BILL NO. HB 574
(Brenneman Beaufort)

LIQUOR AGENCY PRODUCT PURCHASE MODEL

STORE # 195 LOCATION Kalispell 195*

BEGIN YEAR 2

Initial Purchase : 6 weeks supply

Def 197 crisis

LINE#		
1	Commision rate	9.80%
2	Discount rate (adjusted for discount increase)	1.27%
3	Discount rate (FY94 discounts divided by FY94 gross sales)	0.79%
4	FY94 discounts granted	7,145
5	FY94 gross sales	899,594
6	FY94 units sold	82,057
7	Average retail posted price per unit	$10.96
8	Number of weeks of inventory for initial shelf buffer, 2 wk sale	6
9	Average units sold per week in FY94	1,578
10	Monthly distribution of annual units sold	10.80% / 10.20% / 8.56% / 7.86% / 7.65% / 12.41% / 5.64% / 6.43% / 7.17% / 7.01% / 7.76% / 8.51%
11	Total Sales This Month (units)	8,862 / 8,367 / 7,026 / 6,451 / 6,277 / 10,184 / 4,629 / 5,273 / 5,887 / 5,754 / 6,364 / 6,983
12	Total Sales This Month ($)	$97,150 / $91,723 / $77,023 / $70,719 / $68,812 / ******** / $50,745 / $57,805 / $64,536 / $63,078 / $69,765 / $76,551

		JULY		AUGUST		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		JANUARY		FEBRUARY		MARCH		APRIL		MAY		JUNE	
		1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF	1ST HALF	2ND HALF
	INVENTORY PURCHASES																								
13	INITIAL SHELF STOCK, BACK ROOM BUFFER & 2 WEEKS SALES Equal to # weeks supply @ retail less commission & discount rate	43,197	43,197	40,784	40,784	34,248	34,248	31,445	31,445	30,597	30,597	49,641	49,641	22,564	22,564	25,703	25,703	28,696	28,696	28,047	28,047	31,021	31,021	34,038	34,038
14	INVENTORY PURCHASED FOR RESALE THIS PERIOD @ Retail less commission & discount rate	43,197	43,197	40,784	40,784	34,248	34,248	31,445	31,445	30,597	30,597	49,641	49,641	22,564	22,564	25,703	25,703	28,696	28,696	28,047	28,047	31,021	31,021	34,038	34,038
15	ADDITIONS TO INVENTORY PAYABLES THIS PERIOD Payment due in 60 days (initial shelf & backroom earlier)																								
16	REDUCTIONS TO INVENTORY PAYABLES THIS PERIOD Payments on Initial shelf stock, back room buffer & 2 weeks sales		(5,769)		(5,769)		(5,769)		(5,769)		(5,769)		(5,769)				(49,641)		(22,564)		(25,703)		(28,696)		(28,047)
17	Payments on inventory purchased 60 days prior	(31,021)	(34,038)	(34,038)	(43,197)	(43,197)	(40,784)	(40,784)	(34,248)	(34,248)	(31,445)	(31,445)	(30,597)	(30,597)	(49,641)	(22,564)	72,205	(22,564)	(25,703)	(25,703)	(28,696)	(28,696)	(28,047)	(28,047)	(31,021)
18	CUMMULATIVE NET INVENTORY PAYABLES	140,118	143,508	150,255	142,073	133,123	120,818	111,478	102,907	99,256	92,639	110,835	124,110	116,077	89,000	65,061	68,201	74,333	77,326	79,670	79,022	81,347	84,320	90,311	93,328
	INCOME																								
19	TOTAL SALES THIS PERIOD	48,575	48,575	45,862	45,862	38,511	38,511	35,360	35,360	34,406	34,406	55,821	55,821	25,373	25,373	28,903	28,903	32,268	32,268	31,539	31,539	34,883	34,883	38,276	38,276
20	DISCOUNTS APPLIED THIS PERIOD	(617)	(617)	(583)	(583)	(489)	(489)	(449)	(449)	(437)	(437)	(709)	(709)	(322)	(322)	(367)	(367)	(410)	(410)	(401)	(401)	(443)	(443)	(486)	(486)
21	NET INCOME THIS PERIOD	47,958	47,958	45,279	45,279	38,022	38,022	34,910	34,910	33,969	33,969	55,112	55,112	25,050	25,050	28,535	28,535	31,858	31,858	31,138	31,138	34,439	34,439	37,789	37,789
22	AVAILABLE FOR EXPENSES & PROFIT Commission payment equivalent	4,760	4,760	4,494	4,494	3,774	3,774	3,465	3,465	3,372	3,372	5,470	5,470	2,487	2,487	2,832	2,832	3,162	3,162	3,091	3,091	3,419	3,419	3,751	3,751
	INVENTORY PAYABLES RESERVE FUND																								
23	Contributions (net income less amount avail. for expns. & profit)	43,197	43,197	40,784	40,784	34,248	34,248	31,445	31,445	30,597	30,597	49,641	49,641	22,564	22,564	25,703	25,703	28,696	28,696	28,047	28,047	31,021	31,021	34,038	34,038
24	Cummulative fund balance (less reductions to payables)	91,012	94,402	101,149	92,967	84,017	71,713	62,372	53,801	50,150	43,532	61,729	75,004	66,971	39,894	15,955	19,094	25,226	28,219	30,564	29,916	32,241	35,214	41,205	44,222
																35049									

-37,156

EXHIBIT 3-D
DATE 3-21-95
HB 574

MONTHLY STORE SALES & INVENTORY

EXHIBIT NO. 3-C

DATE 3-21-95

BILL NO. HB 574

STORE NO. 29: SHELBY #29

FOR THE MONTH ENDING: JANUARY, 1995 GRADE: 06

************** MONTH-END BALANCING **************

		COMPUTED SALES	18,732.75
AA1 REPORTED CASH	18,549.25	LESS DISCOUNT	247.95
AA1 REPORTED SALES	18,549.25	AA1 REPORTED SALES	18,549.25
CASH OVER & SHORT	.00	SALES OVER & SHORT	64.45

CASH OVER & SHORT	.00
SALES OVER & SHORT	64.45
NET OVER & SHORT THIS MONTH	64.45
NSF CASH	.00
ADJUSTED OVER & SHORT THIS MONTH	64.45

R.D & DISCOUNT SALES IN UNITS	1,147
TOTAL SALES IN UNITS	1,768
R.D & DISCOUNT SALES / TOTAL SALES RATIO	64.87 %
INVENTORY TURNES (ANNUALIZED)	.007
VALUE OF INVENTORY - AT COST	50,628.09
VALUE OF INVENTORY - AT RETAIL	89,921.15

TABLE WINE SALES:	UNITS	TAX	SELLING
	0	.00	.00

EXHIBIT NO. 2 D
DATE 3-21-95
BILL NO. HB 574

First State Bank
of Shelby
DRAWER N
SHELBY, MONTANA 59474-0913

March 20, 1995

Mr. and Mrs. Tony Lunda
PO Box 707
Shelby MT 59474-0707

Dear Tony and Bea:

After reviewing the past several years books from the Liquor Store and reviewing the computer printouts on the proposed payment and pass-through system for privatizing the liquor stores, if would appear that some time in the 18th and 20th months you would end up owing more money than would be in your reserve fund account and depending on your original level of inventory, that could be anywhere from $15,000-25,000, which in order to pay the State for your liquor purchases, it would be necessary to have to borrow.

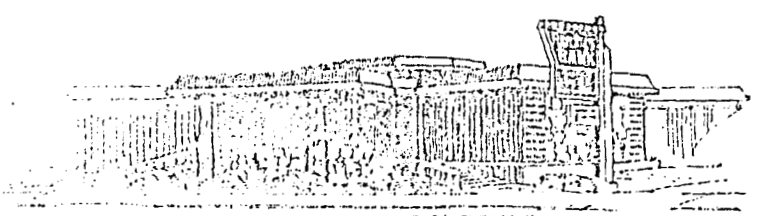
Based on the liquor store inventory itself, furniture and fixtures and equipment, the collateral for a loan would seem to be sufficient. The problem is that under the current system, the amount of cash flow available to you through only a 10% commission is not sufficient to pay normal operating expenses, provide a modest salary and still have enough left over to repay debt over an acceptable period of time on inventory.

It would appear that a 20% commission would allow you sufficient income to amortize your debt out over a reasonable period of time and still provide you with a return on your investment and reimbursement for your labor. Should you have any questions, please feel free to give me a call.

Sincerely,

Byron H. Kluth
President

BK/ba



PHONE: (406) 434-5567

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3-A
DATE 3-21-95
BILL NO. HB 574

Gary McDermott
CERTIFIED PUBLIC ACCOUNTANT
Phone (406) 434-5186
P.O. Box 716 Shelby, MT 59474

March 20, 1995

Tony & Bea Lunda
D/B/A Shelby Liquor Store #29
227 Main
Shelby, Montana 59474

Re: House Bill #574

Dear Tony and Bea:

Per your request, I have reviewed the Liquor Agency Product Purchase Model for Store Number 33 which is located in Conrad, Montana. In addition, I have looked over the financial data that you have provided for the calendar year ended December 31, 1994. From this information, it appears that a small rural retail store would have a difficult time operating on the proposed profit margin of 10%, as outlined in House Bill 574. Retail stores, in general, usually operate on a 40% to 50% gross profit margin. Even with the State carrying the initial inventory purchase on an interest free basis, a 10% margin is not sufficient to cover operating expenses and wages to the owner operator. A more realistic margin would be 20%.

The Shelby Store had gross sales of $277,000 in 1994. This would leave $27,700 to cover operating expenses and wages to you. The store operating expenses in 1994 were $12,500 leaving a net income of $15,200. From this figure, it is proposed in HB574 that you would pay for the initial inventory over a 16 month period. Based upon the Model for Store #33, which is comparable to the Shelby Store, this would require a monthly payment of $1,433 on the initial inventory purchase, for an annual amount of $17,196. Subtracting this figure from the net income leaves a negative cashflow for the year of $1,996. The Model even shows cashflow shortages. In December of year 2, the cumulative cash fund balance is $21,118 and $37,165 is owed to the State in inventory purchases. (1st half January $9,299, 2nd half January $13,933 and 1st half February $13,933)

I do not recommend that you purchase the store unless you have sufficient outside resources to help finance the store and to provide you with a living allowance during the first 2 years.

Sincerely yours,

Gary McDemrott
Certified Public Accountant

COMPARISON OF SELECTED ALCOHOL-RELATED DATA OF CONTROL STATES AND OPEN STATES

	CONTROL STATES (Average)	OPEN STATES (Average)	OPEN STATES HIGHER BY
Motor vehicle fatalities, 1992 (Open states have 32.98% MORE motor vehicle fatalities than control states.)	634.00	843.12	33%
Violent crime rate per 100,000 population, 1992 (Open states have 85.75% MORE violent crimes than control states.)	390.30	724.97	86%
Alcohol-related motor vehicle fatalities, 1992 (Open states have 48.91% MORE alcohol-related motor vehicle fatalities than control states.)	263.61	392.55	49%
Alcohol-related mortality per 100,000 population, 1986-1990 (Open states have 4.57% MORE alcohol-related mortalities than control states.)	42.93	44.89	5%
Alcohol-related mortality due to cirrhosis per 100,000 population,1991 (Open states have 13.45% MORE alcohol-related cirrhosis mortalities than control states.)	9.09	10.31	13%
Homicide per 100,000 population,1992 (Open states have 74.96% MORE homicides than control states.)	5.63	9.85	75%

Sources:

Total Auto Deaths	U.S. Dept of Transportation Traffic Safety Facts 1992, pp 154-155
Violent Crime	U. S. Federal Bureau of Investigation, Crime in the United States, annual
Alocohol-Related Auto Deaths	U.S. Dept of Transportation Traffic Safety Facts 1992, pp 154-155
Alcohol-related Mortalities	U. S. Dept of Health and Human Services U.S. Alcohol Epidemiologic Data Manual, 4th ed. Vol 3, Tale 1, pp332
Alcohol-related Cirrhosis deaths	Statistical Abstract of the United States 114th Ed, 1994, Table 129
Homicide	U. S. Federal Bureau of Investigation, Crime in the United States, annual

House Bill 574, for all the hard work of its sponsor and those individuals participating in its development, does not represent true privatization of the system. It is, rather, simply a shifting of the cost of purchasing the ongoing inventory from the state to a rigidly controlled licensee structure. Partial price fixing, store location, parameters on inventory selection and profit levels will still be regulated or established by the state.

Privatization will not result in enhancing profits or taxes accruing to the state and may, in fact, result in the creation of a powerful, special interest lobby which could eventually cost the state money, raise the prices for the consumer and create greater impetus for more consumption in Montana.

The pressure by large retail grocery outlets to expand the licensees and allow grocery stores to sell liquor will grow and, like other "privatized" states, liquor will eventually become more accessible and less controllable in such circumstances.

We believe that the quest for privatization is driven by public sentiment which, in turn, was influenced by incomplete and inaccurate data. Before proceeding, we would encourage you to ask simple questions. Would this proposal result in true privatization of the state's liquor system? Will the state actually acquire $5 million in one time revenue, if not, how much? Is there a compelling control issue, or financial reason to privatize the state liquor system? Do you expect that once partially privatized special interest pressure will mount for a more full privatization and freedom to set prices, influence tax rates and adjust inventories? Will this proposal result in better consumer services or enhance product selection? Does this proposal result in an elimination of the case lot discount for individual citizens, and subsequently, higher prices for such purchases?

We encourage you to ask these and other questions.

We would also encourage you to reject HB 574. Thank you.

EXHIBIT 2
DATE 3-21-95
HB 574